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BY

Sir CECIL T. CARR, K.C.B., K.C., LL.D.

Let observation, with extensive view,
Survey mankind from China to Peru.
SAMUEL JOHNSON

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ANNUAL REPORT

THE principal event of the year 1948 has been the removal of the Society's Office from Lincoln's Inn to the Royal Empire Society building, Northumberland Avenue, where suitable accommodation has been made available by the kindness of the Society's Council. It is of great advantage to be in a central position readily accessible to visitors, and with accommodation where they can be received hospitably. In addition the accessibility in the same building of a fine library containing all the legislation of the British Commonwealth and Empire is of great value in facilitating replies to enquiries and in dealing with the annual review of legislation. The terms upon which the accommodation has been provided are such that there is only a small increase upon the pre-war expenditure.

In spite of the constitutional changes which have been taking place in the relations between the different parts of the Commonwealth the review of legislation has been provided by contributors with local knowledge to an extent which has rarely, if ever, been surpassed in the past.

Sir Arnold McNair relinquished his active editorship of the Journal, owing to other demands upon him, to Professor Lawson upon the latter's appointment to the Chair of Comparative Law in Oxford. The Committee are very glad indeed that Sir Arnold McNair and Professor Gutteridge are able to continue as associate editors of the Journal. In particular the series of articles which are being published on the Enemy Legislation and Judgment in the Liberated Countries owe much of the former's active interest and wide knowledge of suitable contributors.

The review of legislation is still edited by Sir Cecil Carr, and he and the other editors constitute an editorial committee.

During the year the Committee have had to regret the loss by death of Dr. Walton, who besides being Editor for a time of the Society's Journal had been a constant contributor and always keenly interested in its work. By the death of Sir Alison Russell, the Society lost a member very closely associated with the legislative side of its work upon which he was a foremost authority.

In appreciation of their active interest in the work of the Society, the Committee were glad to welcome as members of the Council, Sir Lancelot Graham and Sir Sidney Abrahams. Other invitations to join it were also accepted by Sir Henry McGeagh, Sir Geoffrey Vickers, V.C., and Dr. E. G. M. Fletcher, M.P. From the Executive Committee they received with regret the resignation of Mr. D. H. J. Hartley. Mr. R. Gavin, the Honorary Secretary of the West India Committee, has succeeded Sir Algernon Aspinall, to whom the Society is indebted for many years of active interest, as a member of the Committee.

The Society were invited by the French Society of Comparative Legislation to co-operate in the compilation of a work giving particulars of the causes for divorce as defined in the legislation of the countries of the world. It had been agreed that the English Society shall be responsible for the legislation of those countries now and until recently within the Commonwealth and Empire. They were fortunate to secure as editor of this volume Mr. J. G. Fleming who has been appointed law lecturer in the College at Canberra. As a substantial section of the material is provided by the legislation of the Australian States, it is hoped that his residence in the Commonwealth of Australia may assist the preparation and possibly the publication of the volume.

The annual accounts for the year show a gratifying increase in the receipts from annual subscriptions, which are the main support of the Society's work. The grants

were increased by a renewal of the grant of twenty guineas from the Masters of the Bench of the Inner Temple for which the Committee are grateful. The item which shows a substantial decrease was from the sale of back numbers and reprints, which has always been an uncertain item, and was diminished owing to the decision of the Editorial Committee to allow contributors to have reprints. The subscriptions in arrears have now been almost entirely brought up to date so that source of income in the receipts is no longer available. On the expenditure side of the accounts although the cost of accommodation is more than in the previous year, it is only approximately the same as the Society was incurring in the chambers in the Temple. A non-recurring substantial item was for office equipment which was more than met by the War Damage Payment received in the previous year. The net result is that the balance in hand is sixty pounds less than in the previous year when there was also an outstanding account for a number of the Society's Journal. This large bank balance at the end of the year is mainly necessitated by the fact that an invoice for the printing of an issue had not been received at the date of the closing of the accounts.

There is evidence of an expanding interest in the work of the Society, especially in other countries, and the Committee can go forward with confidence that their work is recognised to be of value not only within the confines of the British Commonwealth and Empire but far beyond it.

SOCIETY OF COMPARATIVE LEGISLATION

Dr. RECEIPTS AND PAYMENTS ACCOUNT FOR THE YEAR ENDED 31ST DECEMBER, 1948 **Cr.**

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General	567 18 10	
Government	144 19 2	
		712 18 0
,, Grants:		
Fiji Government	10 0 0	
Gold Coast Government (1947, 1948)	12 0 0	
Gray's Inn	21 0 0	
Inner Temple	21 0 0	
K. Lachmann	4 10	
Law Society	10 10 0	
Mauritius Government (1947, 1948)	8 8 0	
Trinidad Government	5 0 0	
		88 2 10
,, Sale of Journals, Back Numbers, Reprints, etc.	39 16 4	
Less cost of Reprints	29 19 6	
		9 16 10
,, Interest on 3% Defence Bonds*		6 0 0
,, Premium 1% on Conversion		2 0 0
,, Subscriptions in arrear paid during 1948		21 1 10
,, Subscriptions in advance paid during 1948		79 4 2
,, War Damage Payment and Income Tax Refund		4 18 2
,, Cash at 1st January, 1948:		
At Bank	875 18 9	
In Hand	3 13 1	879 11 10
		£1,803 13 8

	£ s. d.	£ s. d.
By Publication of Journal:		
Printing—Vol. xxix, Pts. 3 and 4	200 2 2	
Vol. xxx., Pts. 1 and 2	329 7 8	
Postal Wrappers	8 2 6	
Paper for *Journal*	27 14 5	
		565 6 9
,, Salary of Clerk		223 10 0
,, Rent of Office		112 12 0
,, General Expenditure		71 6 2
,, Audit of Accounts		3 3 0
,, Stationery		15 5 5
,, Insurance		1 18 6
,, Office equipment and removal expenses		63 12 7
,, Telephone		1 15 10
,, Prospectus		8 0 0
,, Cash at 31st December, 1948:		
At Bank	733 0 8	
In Hand	4 2 9	
		737 3 5
		£1,803 13 8

*NOTE.—The Society holds £200 2½% Defence Bonds Conversion Issue.

We have examined the above Receipts and Payments Account with the Books and Vouchers, with which it agrees. We have verified the Bank Balance and also the investment of £200 2½% Defence Bonds.

LONDON: 48, Copthall Avenue, E.C.2.
17th March, 1949.

CASH, STONE & CO.
Chartered Accountants.

INTRODUCTION

[*Contributed by* Sir Cecil Carr, K.C.B., K.C.]

This collection of summaries of the legislation of 1947, compiled by the generou labour of our contributors, illustrates human experience and experiment in a yea of unusual interest. In India, Burma and Ceylon national aspirations are fu filled, and new autonomous States are created, not by way of anarchy an bloodshed but by the formal and deliberate processes of law based upon th assent of peoples. The legislator is well aware that in matters great or smal general or particular, he must keep pace with changing conditions. The per petual pension—to take a merely personal example—which a thankful countr attached to the earldom posthumously conferred upon the family of the hero c Trafalgar, must now be abolished as an anachronism. Other times, other law and other memories. The freedom of the City of London was given to Si Robert Peel in 1829 in recognition of his reform of English criminal law an procedure, and a statue was erected in his honour at the western end of Cheap side. As Home Secretary he had given effect to the ideals of Romilly an Mackintosh and had replaced with more humane and sensible punishments a mas of archaic provisions incidentally repealing some 300 Acts of Parliament. To day, in the year 1949, his statue, it seems, cannot find a home; it is the victim c the speeding-up of traffic and the slacking off of national gratitude. *Statua* an *statutum*, the thing set up and the thing set down, share an etymological origi and a prospective oblivion. Not for our laws is the permanence claimed by thos of the Medes and Persians.

Studying the details recorded in the pages which follow this introduction, on sees many common features—war-time laws being abandoned at the coming c peace or else made part of the normal peace-time codes, emergency powers bein handed back by the Executive to the Legislature or else (alas! not seldom indefinitely continued, projects of reconstruction and resettlement being presse forward, rents being frozen and controlled in a period of housing shortage, an so on. There are special motives for common action such as the mutual exten sion of diplomatic privileges to protect international organisations. As the inde pendence of India involves a change in the Royal Style and Titles of His Majest who is now no longer *Indiae Imperator*, the Parliaments of Canada, Australi and New Zealand must give effect thereto, as well as the Parliament of th United Kingdom, in accordance with the preamble to the Statute of Westminste Common impulses stimulate legislation. Town and country planning, for in stance, demands attention, whether in the form of Southern Rhodesia's rearrange ment of village boundaries and redistribution of land, Jamaica's restrictions o hoardings and advertisements or the Orange Free State's plans for developin new and existing townships or in the formidably complicated provisions of th English and Scottish Acts with their emphasis on the elimination of privat advantage from the possession and transfer of property where time and th propinquity of increasing population, or where personal forethought and effor have brought about an increment of value. Measures are taken by the Gol Coast, Tanganyika Territory, British Guiana and Jamaica to regulate the minin and export of radio-active materials and to ensure notification of any discoveries Alberta, Manitoba and Ontario are reserving to persons genuinely blind the righ to carry and use white canes in streets or other public places. Is this simu taneous action in Canada due perhaps to the preparation of a Bill by the Com missioners on Uniformity of Legislation? Changes in the law of evidence i Alberta and British Columbia, arising from the difficulties created by the rulin in *Russell v. Russell*, are presumably to be ascribed to that source (see p. 36).

Some of our contributors look back upon 1947 as a year of intensive activit in law-making. Though Mr. Woinarski notes (not, it seems, with any poignan regret) a diminution in output in the State of Victoria, attributable to the occu rence of a general election, New Zealand, India and Burma are among th

ountries which report an unusually large number of new laws. If sessions are ong and subsistence is expensive, legislators must not be at a disadvantage. Their pay is increased in 1947 in both Houses of the Canberra Parliament (from £1,000 to £1,500) and also in the Parliament of Western Australia. In 1937 the Parliament at Westminster awarded a statutory salary to the Leader of the Opposition. The Commonwealth of Australia similarly acknowledges the significance of responsible criticism of the majority party; it gives £400 a year to the Leader in the House of Representatives of any recognised political party of not less than ten members. The annual allowance for a Member of Parliament of the Union of South Africa goes up, and here too the Leader of the Opposition now receives a salary (£1,000). In Northern Rhodesia the Member's allowance of £600 suffers a deduction of £3 a day (up to a maximum of £100) if he is absent from duty. It may be that other legislatures have been increasing their members' pay under authority not to be found in their statutes; the grant to members of the House of Commons in London of £400 a year in 1911, and its increase to £600 in 1937 and to £1,000 in 1946, were authorised by a mere resolution of the House. There is a distinction between salary paid to the legislator for his attendance and an allowance to cover the expenses he incurs; income tax will be exacted from the former while the latter may escape. In Alberta, British Columbia and Saskatchewan his remuneration (sometimes called his 'sessional indemnity') is split so as to recognise the distinction and give him the benefit of relief from tax.

Increased taxation and a rise in the cost of living involve a general revision of pension and superannuation arrangements. In several countries, though not yet in England, the judges receive increases of pay in 1947. Among revisions of jurisdiction it is to be noted that there will soon be no more appeals from India to the Privy Council in Downing Street. The conjoint Court of Appeal for the two Rhodesias has its radius extended to take in the protectorate of Nyasaland. Of what Sir Courtenay Ilbert used to call "lawyers' law" we must mention the Crown Proceedings Act passed by the United Kingdom;* assimilating the legal position of the Crown in English Courts to that of an ordinary litigant (subject to various limitations), and also the Crown Suits Act of Western Australia. The new Companies Act passed at Westminster makes several changes, if it does not go quite as far as the Cohen Committee recommended. Mr. Bean reports from South Australia an interesting variant of the *cy près* principle; money subscribed for war charities and now no longer needed for that purpose can be diverted to other ends, whether charitable or not, by a resolution of the two Houses.

There are sundry developments of the criminal law—new provisions for juvenile delinquency in Quebec, for habitual offenders in Canada and Bombay, and for sexual offences in Queensland. The Gold Coast is requiring judges and magistrates to record their decisions and the reasons for them in certain proceedings. Specifically created offences include the making of a false report to the police in Tasmania, giving a false alarm of fire in England and Madras, and making untrue statements to procure a passport in Canada. Burma alters her penal code and distinguishes different kinds of murder, some punishable with death, others with mere imprisonment. We must wait to see whether the distinction (disfavoured by judicial opinion in England) between premeditated and unpremeditated murder will prove satisfactory in practice. Madras has a new law to punish persons found drunk in a public place or even, within a prohibition area and without permit to consume intoxicating liquor, in a private place. Persons under 21 are too young to be admitted to licensed premises in Tasmania, though they are old enough at 18 to exercise the municipal franchise in Sas-

* See p. 14 below. For a comparative statement of the law of Canada, the United Kingdom and the United States see the articles in the *Canadian Bar Review* for February, 1948, by Mr. D. Park Jamieson, K.C., Sir Thomas Barnes, G.C.B., and Mr. Edwin Borchard.

katchewan. Other noteworthy Tasmanian laws authorise fresh control of cinemas and (as also in Western Australia) a film censorship. India imposes a press censorship, and legislates afresh against bribery and corruption, creating the offence of misconduct by a public servant in the discharge of his official duty. Nigeria ensures the control and registration of public collections; the North-West Frontier Province supervises the conduct of orphanages. South Africa has abolished the last relics of imprisonment for civil debt. Mention of "disturbed areas" in Bengal and in Uganda and of Home Guards in Bombay, Bihar and Assam reminds us that in these and other countries conditions are not yet normal. The continuance of Public Order Preservation Acts in Burma, and the new power for the police to inspect bankers' books in the fight against subversive movements, are further evidence. Ceylon has adopted something like Britain's Public Order Act of 1936. There is a new offence in St. Lucia of persistently following persons in a public place for the purpose of soliciting alms or employment, satisfying idle curiosity or causing annoyance.

These developments of the criminal law facilitate prosecution and punishment; but there are occasions when the community demands the investigation of disquieting allegations without the formulation of a definite charge. Authority is needed for compelling the attendance of witnesses, for examining them on oath and for insisting upon the production of documents. One method is an inquiry by a committee of the legislature; this is adopted by Assam in 1947. It was the method employed by Britain in 1912 for sifting the rumours of the so-called Marconi scandals; but an inquiry by a Select Committee of the House of Commons is not satisfactory if people feel that the members of the tribunal are influenced by party loyalties. An earlier alternative was the enactment of an *ad hoc* statute naming persons to investigate a particular matter and arming them with the necessary powers. This was the method adopted by examining accusations of maladministration in the Dardanelles and Mesopotamia campaigns in 1916. The third method, adopted by Britain in 1921 and lately applied by the reference to the Lynskey Tribunal of the suggestions of misconduct on the part of Mr. Belcher and others, is to have a general and permanent statute which creates the machinery for an inquiry and which can be brought into play whenever some urgent matter of public importance needs investigation. Mr. Pienaar throws light on the working of this method in the Cape Province. It may not be a perfect method. As in the case of coroners' inquests in England, there is no specific charge against an individual, no exclusion of evidence not strictly material, no prosecutor and no appeal from an adverse finding. Moreover, if members of the tribunal themselves press witnesses in cross-examination, they cannot avoid the appearance of an unjudicial bias. On the whole, however, public opinion in Britain was satisfied that the choice of this method for the Belcher case was well justified.

Some readers may find the most striking novelties of 1947 in the instalments of State monopoly, such as the nationalisation of banking in Australia (challenged with success in the law-courts) and of transport and electricity in Britain. Without any attempt to analyse or classify the underlying political philosophies, one can find plenty of problems here not only in the initial assessment of compensation but also in the subsequent reconciliation of independent management with parliamentary control. Earlier centuries might have dealt loosely with these by the creation of chartered companies. Today the new State boards inevitably resemble some giant joint-stock enterprise with their hierarchies of directors and executives. Be all this as it may, the idea of public ownership of supplies and services is not entirely new to the British statute-book. Early in that Victorian age of which the merits are nowadays not over-stated, Mr. Gladstone's Railway Regulation Act gave the Treasury an option to purchase future railways after twenty-one years "in the name and on behalf of Her Majesty" for a sum equal to twenty-five years' purchase of the annual divisible profits estimated upon the average of the last three years. This Act of 1844 recited, in words which Glad-

tone himself may well have written, that it was expedient that the question of purchase "should remain for the further consideration of the Legislature upon grounds of general and national policy." As for electricity supply in Britain, a statute of 1882, following a precedent in the Tramway Act of 1870, authorised local authorities to buy the local electricity undertakings after twenty-one years at a fair market value, without any inflation of price by reason of goodwill or of the compulsory element in the purchase and without regard to present or prospective profits. The Health of Towns Commissioners in 1845 and a Select Committee of the House of Commons in 1846 had recommended that local authorities should have a similar option to buy new waterworks. The references to "the national policy" in the centralising Water Act of 1945, to "the public interest" in the Bank of England Act and the Coal Industry Nationalisation Act of 1946 and to "the national interest" in the Transport Act and Electricity Act of 1947 are powerful echoes of what Mr. Gladstone said a hundred years before. It might have been supposed, by the way, that the nationalisation measures of a Socialist Government in Britain would have precipitated a clash between the two Houses of Parliament. On the contrary, whatever may happen with the Iron and Steel Bill, the progress of those measures has shown the value of a Second House as a revising chamber. The House of Lords inserted 210 amendments in the Transport Bill, many of them carrying out undertakings given by the Government in the House of Commons. The Commons accepted 173 of the 210, and the Lords forbore to insist upon the remaining 37; thus no constitutional crisis arose. The more hasty the passage of a controversial Bill through the First House, the more probable the need of revision in the Second.

The variety of the legislator's tastes is bewildering. Arbor Day, though annually proclaimed as heretofore in Manitoba, ceases to be a public holiday. There can be bank half-holidays in South Australia. Malta, G.C., will keep September 8th as a National Day to commemorate the lifting of two historic sieges—that of 1941-3 as well as that of 1565. Among other samples taken at random the topics include a domestic assistance service in Tasmania, social welfare workers in South Africa, bread delivery in Queensland, the export of antiquities from India, treasure trove in Bihar, Hindu marriages in the Windward Islands, Japanese currency notes in Burma, medals for deeds of bravery in Eire, a Bill of Rights for Saskatchewan, local daylight saving in Manitoba, finger prints and photographs of suspects in the Leeward Islands, ships for Palestine at Gibraltar, Hutterites in Alberta, the tourist traffic in South Africa, parking meters for motor vehicles in Nova Scotia, pool betting in the Isle of Man, and the disposal of unclaimed articles in Ontario. Legislatures have alternately to check and to stimulate the forces and phenomena of nature in different climates. There are new laws about bee disease and potato disease in British Columbia, plant diseases and insect pests in Newfoundland, Manitoba and Bombay, fruit fly in South Australia and Victoria, and stock diseases in Queensland where sellers of tubercular animals are made liable to purchasers and where aircraft are to be allowed to lay poison baits for dingoes. Indigenous plants are protected in the Transvaal, wild rhododendrons in British Columbia and turtles in St. Christopher and Nevis. Nutmeg growers are organised in Grenada. South Africa is concerned for her fishing industry and the products of the sea, including seaweed. Rural fires, the destruction of State forests, timber reserves and national parks receive attention in Newfoundland and Queensland.

Without prolonging what soon grows into a tedious list of casual samples, we may pick out some instances of the variety of provisions for professional organisation and discipline. The summaries mention auctioneers in Eire, nurses in South Africa and India (along with 'mothercraft nurses' in Tasmania and 'nursing aides' in Alberta), music teachers in British Columbia and veterinary medicine in Queensland and Quebec. There are arrangements for licensing farmers in Northern Rhodesia, fur farmers in British Columbia, notaries public in Kenya, stock brokers and stock exchanges in South Africa, insurance adjusters

in Nova Scotia, street photographers in Western Australia and collection agencies in Saskatchewan. There is registration of public accountants in Queensland. Quebec encourages doctors to practise in country districts. British Columbia establishes the profession of forestry and Alberta that of agrology. Tasmania institutes examination tests for the appointment of local government officials (council clerks and town clerks). There are fresh restrictions on extortionate moneylenders in Queensland. The legal profession is much in evidence; perhaps the most unusual feature here is found in Malta, G.C., where not only is the unqualified practitioner forbidden to practise for reward but also "touting" on behalf of an advocate, legal procurator or notary public or by a practioner on his own behalf, becomes punishable with fine and imprisonment.

It will not be supposed that laws which suit one country will suit another or that what is found useful today will always be worth while in future. Last year this Introduction drew attention to a device whereby the New Zealand legislature includes in a sessional Statutes Amendment Act a miscellany of minor unrelated improvements of the law. It was suggested that legislators at Westminster might profitably study this device in order to secure more easily the enactment of small changes which otherwise must wait their turn to come forward in separate Bills. Unchallengeable authority in New Zealand sent a courteous warning, which it is permissible to quote, against the suggestion that the device might well be imitated. In 1915, said the message, war conditions doubtless justified a Finance Act which amended a number of statutes, but this by repetition became an evil habit. The Statutes Amendment Act was an attempt to mitigate the evil by placing miscellaneous sections where they could easily be found. In practice however, an Attorney General has difficulty in resisting requests by colleagues for all sorts of clauses to be crowded into such an Act on the plea of extreme urgency. Thus it happens that a principal Act in New Zealand may find itself amended by some amending statutes whose specific name identifies them with it, and also by clauses in sundry Finance Acts and sundry Statutes Amendment Acts. There is difficulty in tracing all these amendments and there is disadvantage in the fact that anyone desiring to purchase an Act with its amendments must buy and pay for many Acts whereof the greater part may have nothing to do with his particular subject.

The warning is gratefully welcomed. There may nevertheless be matters affecting the mechanics of legislation to which draftsmen may like to be directed, whether or not they may be inclined towards imitation. They will wish to congratulate Tanganyika Territory and Nigeria on initiating fresh editions of Revised Statutes by competent hands, and they may be interested in Mr. Dennison's account of Northern Rhodesia's new method of binding up the laws in separate replaceable parts. They may note with sympathy the impulse to 'dress old words new.' Thus "Maori" very properly replaces "native" in New Zealand enactments, and, just as in England in 1930 "pauper lunatic" gave way to "rate-aided person of unsound mind," so now in the Isle of Man a "poor asylum" becomes an "infirmary." Even "detention barracks" in the Army Act of the United Kingdom must be re-labelled "military corrective establishments" to proclaim a new social purpose, and the contumelious word "bastard" (in section 145 and elsewhere) becomes "illegitimate." A similar trend of tolerant and sympathetic humanity seeks to remove embarrassment in England, Northern Ireland and Mauritius by authorising a new and shortened form of birth certificate which will omit any hint of irregular parentage.

Interpretation Acts are among the tools of the parliamentary draftsman's trade. In an amending statute Canada has added to the list of standard definitions and has declared that marginal notes and headings are no part of an Act: she has also, it seems, made general a clause not infrequently inserted in United Kingdom statutes, both public and private—protecting the draftsman but sometimes trapping the layman—namely the clause that, except where the context otherwise requires, all references to any provision of a previous Act shall be

construed as references to that provision as amended by any other enactment. British Columbia explains that the statutory expression "the conclusion of the war" will henceforth mean June 30th, 1947. South Africa amends her Interpretation Act by introducing an automatic device for the interchange of ministerial functions and duties. The Kingdom of Tonga re-defines "day" for the purpose of payment of wharfage. Tasmania changes the numbering and citation of her statutes: for those enacted after 1947 the secular or calendar year will be substituted for the regnal year. The series of chapter numbers will begin afresh each year; it will not run continuously forward as in the system formerly adopted by the States of Victoria and South Australia. By another noteworthy provision Tasmania allows statutory regulations to give themselves retrospective effect. In the United Kingdom there are a few well-known instances in which a parent statute authorises this course, but the House of Commons requires its Select Committee on Statutory Instruments to report for the information of the House any case where a department appears to be giving retrospective effect to its rules and regulations without such authority.

Of the extent of this subordinate legislation the final paragraph of the United Kingdom summary tells its usual tale. There is evidence that, if legislation of an experimental character is hastily prepared and inadequately discussed, the legislature must delegate to extra-parliamentary bodies not only the elaboration of detail but also the thinking out of matters of principle (see p. 9). Any attempt to establish parliamentary control of delegated legislation deserves notice. In the Bahamas a simple new system requires all statutory rules and orders to be laid before both Houses of the legislature and allows them to be revoked on an adverse resolution of either House; there is apparently no occasion to arrange for affirmative resolutions or for draft instruments.

The particular laws to which reference has been made in the previous pages can be traced by means of the index at the end of this volume. Even when summarised, the legislation of 1947 can be seen to be as bulky and as complicated as that of previous years. An incident in the cricket-field makes one wonder whether the inherent tendency of all laws to complicate themselves has not gone too far. Towards the close of the first day of the second Test Match between England and New Zealand at Lords last June, the English captain declared the innings closed at the score of 313 runs for 9 wickets and caused the opponents to begin batting before the day's play ended. Next morning's newspapers revealed that the secretariat at Lords had promulgated an official announcement that this declaration in a Test Match had been illegal. "Either the New Zealand captain or the umpires would therefore have been justified in refusing to accept the declaration at the time it was made. . . . Since this was not done, it would not appear that a dispute exists and the match will be continued tomorrow in accordance with Law 46." There seems to have been a remarkable *ignorantia legis*. The English captain and the umpires had apparently nodded; none of the omniscient veterans in a well filled pavilion had intervened to prevent the commission of a deplorable irregularity; none of the thousands of cricketing enthusiasts seated all round the ground had acted as common informer. All that happened was that an obscure law was declared to have been contravened, judgment was pronounced in almost judicial terms, and the public learned with relief that the match was to proceed and that nothing made any difference after all. Does this innocent apologue offer no moral to the legislators who are concerned to regulate the more serious affairs of life?

I. BRITISH ISLES

1. UNITED KINGDOM.

[*Contributed by* Sir Cecil Carr, K.C.B., K.C.]

During 1947 the United Kingdom Parliament passed 64 public general statutes: 51 belong to the old session of 10 & 11 Geo. 6 which ended on October 20, and 13 to the new session of 11 & 12 Geo. 6* which began next day.

In bulk this legislative output was substantial; its text of more than 2,000 pages occupies two stout volumes. A few war-time measures are transmuted into permanent law. Discussion of some Bills of major importance was regulated by recourse to the guillotine.

Improvement of the Statute-Book.—There is no Statute Law Revision Bill in 1947. The only consolidating statute is the Local Government (Scotland) Act which, like the corresponding English Act of 1933, amends as well as reproduces the existing law. This Scottish statute (c. 43) not only repeals those enactments which it reproduces, but also puts on the bonfire other Acts or fragments which the process of simplifying and rewriting has shown to be unnecessary. Such *ad hoc* tidying while the draftsman and the administrators have the whole subject in their minds is preferable to leaving odds and ends to be swept up some day in the general course of statute law revision. The Town and Country Planning Acts of 1947 for England and Scotland helpfully reprint in schedules the remnants of the statutes of 1944 and 1945 respectively which they have heavily amended and which they largely repeal. Two Acts of 1947 use the device of what is sometimes called the Keeling schedule; having amended a former enactment, they set out its text as it will stand in future.

Commonwealth Developments.—Among the old self-governing Dominions New Zealand, having now adopted the previously unapplied sections of the Statute of Westminster, obtains the full and formal recognition of her undisputed right to amend her own constitution. A brief declaratory statute (c. 4*) incidentally repeals the Act of 1857 whereby the political caution of that era reserved to the home country the long disused right of vetoing New Zealand legislation.

Four statutes of 1947 register the birth of new autonomous nations. The Indian Independence Act (c. 30) declares that—

> "As from the 15th day of August, 1947, two independent Dominions shall be set up in India, to be known respectively as India and Pakistan."

The former Provinces of Bengal and the Punjab are split, boundary commissioners fixing the dividing line. Pakistan takes East Bengal and West Punjab with Sind and British Baluchistan and, subject to a referendum, the North West Frontier Province; India takes the rest. The Indian States can join either Dominion. Each Dominion is to have a Governor-General appointed by His Majesty in Council. Each is given full power to make laws (including laws with extra-territorial effect) for itself. His Majesty's Government in the United Kingdom ceases to have any responsibility for the government of what was once British India: His Majesty's suzerainty over the Indian States lapses, and with it go all the old treaty obligations and rights; treaties, agreements and obligations in respect of the tribal areas lapse also. The powers of the legislature of each new Dominion to provide for its new constitution are exercisable in the first instance by a Constituent Assembly. Orders of the Governor-General may settle transitional difficulties, including the regulation of the monetary system, the future of the Reserve Bank of India, and the division of the Indian armed forces. To smoothe the transition from unitary to dual government, the Act allows the same person to be Governor-General of both Dominions until either of them enacts the contrary. Incidentally the Parliament of the United Kingdom, in

* Where in this Summary the chapter numbers of statutes are marked with an asterisk, the reference is to chapters of the session 11 & 12 Geo. 6

accord with the preamble to the Statute of Westminster, declares its assent to the omission of *Indiæ Imperator* and " Emperor of India " from the Royal Style and Titles. Other clauses deal with the naval forces, divorce jurisdiction, existing laws and interpretation. Aden, instead of being governed by Orders in Council under section 288 of the Government of India Act, 1935, now comes under the British Settlements Acts.

Burma next attains complete autonomy (c. 3*). On the appointed day (January 4, 1948)—

> " Burma shall become an independent country, neither forming part of His Majesty's Dominions nor entitled to His Majesty's protection."

The suzerainty over the Karenni States disappears. Vast classes of persons cease to be British subjects. Appeals to the Privy Council from courts in Burma come to an end. The references to Burma which were introduced into many United Kingdom statutes in 1935 (when the government of Burma was separated from that of India) are now deleted again.

Lastly Ceylon attains, in the words of the long title of the Ceylon Independence Act (c. 7*), " fully responsible status within the British Commonwealth of Nations," without being described as a Dominion.

> " No Act of the Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to Ceylon as part of the law of Ceylon, unless it is expressly declared in that Act that Ceylon has requested, and consented to, the enactment thereof."

As from the appointed day[1] " His Majesty's Government in the United Kingdom shall have no responsibility for the government of Ceylon." Henceforth no law made by the Parliament of Ceylon will be void or inoperative on the ground that it is repugnant to the law of England or to the provisions of any existing or future Act of the United Kingdom Parliament. Ceylon will have power to repeal any such Act and may make laws having extra-territorial operation.

Thus the United Kingdom statute-book chronicles great changes, each with its own pattern. Two other Acts affect the powers of the Westminster legislature. The Mandated and Trust Territories Act (c. 8*) substitutes the trusteeship system of the United Nations for the mandate system of the now terminated League of Nations. The Northern Ireland Act (c. 37) further enlarges the legislative competence of the Belfast Parliament. Schemes for such purposes as water and electricity supply, land drainage, roads, railways and canals are not to be *ultra vires* merely because they form part of public services extending athwart the land frontier into Eire. The registration of deeds and of title to land in Northern Ireland are removed from the category of " reserved matters." The 1920 Act was careful to prohibit the taking of property without compensation. This safeguard, it seems, was judicially interpreted as meaning without full compensation, so that transfers led to litigation. The prohibition is modified so as not to interfere with transfers of the property of public utility undertakers or local authorities, or with provisions which bring hospitals and doctors' practices into a national health service. Other provisions authorise the Belfast Parliament to consolidate and amend the law limiting actions by or against the Crown, to arrange for the compulsory retirement of county court judges, to adjust the superannuation rights of Northern Irish civil servants in respect of reckoning war service, and to deal permanently with highways which were stopped up or diverted under emergency powers. Finally it is declared that, where Belfast can repeal or alter an enactment passed at Westminster, it may also repeal or alter any order, rule or regulation made in pursuance of that enactment; the ante-dating of the operation of this provision to July 1, 1921, suggests that there were uncomfortable doubts to be removed.

1. February 4, 1948: see S.R. & O. 1947 (No. 2,782) I, p. 204.

A short Malta (Reconstruction) Act adds a grant of 20 millions—for " making good war damage " and for " general reconstruction and planning "—to the grant of 10 millions voted at Westminster in the trying times of 1943 (c. 9.)

Being no longer garrisoned, the Channel Islands do not require lieutenant-governors of military status. Jersey and Guernsey having agreed to be responsible for paying the salaries of their lieutenant-governors and for the upkeep of their Government Houses, the Jersey and Guernsey (Financial Provisions) Act authorises payment to the two Islands of sums equivalent to those derived from the hereditary revenues of the Crown in the Islands (c. 2*).

Constitutional Arrangements at Home.—In 1944 a House of Commons (Redistribution of Seats) Act prescribed rules for standardising the electoral strength of constituencies, a basis of 50,000 voters for a single-member constituency being regarded as the ideal. One rule, based on a recommendation of the Speaker's Conference, said in effect that a single-member constituency was not to be less than 75 per cent or more than 125 per cent of the electoral quota. Experience, as after the Speaker's Conference of 1917, showed that mathematical formulæ are sometimes awkward to apply; all areas do not fit easily into a procrustean scheme. A new Act of the same name (c. 10) allows the Boundary Commission to depart from the strict application of the rule in an appropriate case.

In 1937 the Ministers of the Crown Act fixed the remuneration of the various Ministers and their Parliamentary Under-Secretaries, limiting the number of the latter who might receive salaries and might sit and vote in the House of Commons. In 1947 a Ministers of the Crown (Treasury Secretaries) Act finds room for an " Economic Secretary to the Treasury " (c. 5*).

International Relations.—Treaties of peace with Italy, Roumania, Bulgaria, Hungary and Finland were signed on His Majesty's behalf in February, 1947. In accordance with precedents of 1919 and 1920 His Majesty is now authorised by statute (c. 23) to " make such appointments, establish such offices, make such Orders in Council and do such things as appear to him to be necessary for carrying out the said Treaties."

The Polish Resettlement Act (c. 19) legislates for the pensions, retired pay and disability grants of the Poles serving (in pursuance of the agreement of November, 1939) under British command and the unarmed Polish resettlement forces. To certain categories the Assistance Board may pay allowances. The Minister of Education may see to their educational needs and the Minister of Labour to their emigration. The fighting units are placed under the command of a senior British Officer as " Administrator," and provision is made for their discipline and internal administration. The limits imposed by the Army Act and the Air Force Act on the number of aliens who may serve at any one time in any corps or unit are not to apply. If professionally qualified, Polish medical practitioners and pharmacists may continue their work in Britain with temporary registration in the British medical register.

Emergency Powers.—Hastily passed on August 24, 1939, the Emergency Powers (Defence) Act was the mainspring of Britain's war-time legislation. It authorised the making of Defence Regulations for war-time purposes couched in generously wide terms, and it authorised these Regulations to confer power to make orders, rules and byelaws. This temporary statute needed annual renewal. Germany capitulated in May, and Japan in August, of 1945; but legislative emergencies are not soon ended. Late in 1945 the Supplies and Services (Transitional Powers) Act continued many of the Defence Regulations for the constitutionally disturbing period of five post-war years, certain fresh purposes being specified. Early in 1946 an Emergency Laws (Transitional Provisions) Act achieved three objects; it extended a few war-time statutes, it made permanent the temporary amendment (hitherto effected by Defence Regulations which might soon expire) of about a dozen Acts, and it continued till the end of 1947 some

60 of the Defence (General) Regulations and also several of the special codes of Defence Regulations such as those dealing with agriculture, evacuated areas, the national fire service, sale of food, war risks insurance and the women's forces. Thus delegated legislation was still pouring from two fountains, thanks to the Acts of 1945 and 1946. We may apologetically label these the S.S. (for Supplies and Services) and the E.L. (for Emergency Laws) respectively, and we have now to see how they were prevented in 1947 from running dry.

A fresh S.S. statute, the Supplies and Services (Extended Purposes) Act (c. 55), recalls in its preamble that the purposes of the 1945 Act were—

> " connected mainly with the orderly transition from war to peace, the maintenance of a sufficiency of supplies essential to the well-being of the community, and the allocation of available supplies and services during the transition."

The preamble then proceeds as follows:—

> " And whereas, by reason of the war and the dislocation of trade consequent thereon, supplies and services available are, or are likely shortly to become, insufficient for meeting the essential needs of the community, and it has become necessary that the use of the powers conferred by those Regulations should be directed more particularly to increasing production and redressing the balance of trade. . . ."

And so the new Act proclaims the three new purposes—promoting the productivity of industry, commerce and agriculture: fostering and directing exports and reducing imports and redressing the balance of trade: and

> " ensuring that the whole resources of the community are available for use, and are used, in a manner best calculated to serve the interests of the community;"

but nothing in all this " shall be held to authorise the suppression or suspension of any newspaper, periodical, book or other publication ".

Finally another E.L. statute (the Emergency Laws (Miscellaneous Provisions) Act (c. 10*)) offers a " mixed grill," to quote Lord Jowitt's description, like its predecessor in 1946. In the first place it divides the outstanding Defence Regulations into the three classes set out in its first schedule; one class is allowed to die at the end of 1947, another is prolonged to the end of 1948, and a third until December 10, 1950, this last date being the date when the S.S. five-year extension, enacted in 1945, comes to an end. The statute next reproduces in its second schedule several Defence Regulations which it now makes permanent as such. Next it extends for various limited periods, and amends, some minor war-time enactments on different subjects, and *inter alia* it repeals the Isle of Man (Detention) Act of 1941. Even so, the expiration of these war-time measures is not definitely in sight; their limited continuance may still (under s. 7) be further prolonged, for a year at a time, on a resolution of both Houses of Parliament.

Defence.—A new National Service Act (c. 31) imposes on every male British subject between 18 and 26, ordinarily resident in Great Britain, the liability to be called up for whole-time and part-time service in the armed forces. The whole-time service will be twelve months (or such shorter period as is appointed by Order in Council) with the regular forces. Part-time service with the reserves will run for seven years after the whole-time period expires; it means training for periods not exceeding—

(*a*) sixty days during the whole of the part-time term, and
(*b*) twenty-one days in any year of it.

The whole-time twelve-month period was substituted for one of eighteen months while the Bill was in committee. Volunteer service may be substituted for the part-time liability. There is special provision for medical and dental practitioners and for the " further education " (under s. 41 of the Education Act, 1944) of the whole-timers. The civilian employment of men called up is protected;

employees are not to be dismissed by reason of their liability to serve; if, under any contract of service or apprenticeship an employer is obliged to allow annual holidays to persons called up, the annual holidays are not (unless the man so requests) to be allowed at times comprised within the period of training.

The Army and Air Force (Annual) Act, effecting the usual continuance of the codes of military and air-force law, inserts a few amendments (c.25). The word " bastard," now found too gross, is replaced by the word " illegitimate," and " detention barracks " are re-named " military corrective establishments." Apart from these euphemisms the main change is that an officer is now made liable (as other ranks so long have been) to maintain his wife and children.

A Naval Forces (Enforcement of Maintenance Liabilities) Act (c. 24) sanctions the appropriate deduction from the pay of an officer, seaman or marine for the maintenance of his wife and children, whether legitimate or illegitimate. It also prevents him from discontinuing an allotment of his pay or allowances for his wife's benefit " until the Admiralty or a person deputed by the Admiralty is satisfied that the allowance should no longer be paid." This will help where efforts are being made to effect conciliation between husband and wife and will check a man from taking over-hasty and unreasonable action on insufficient grounds.

Civil Aviation.—The Air Navigation Act, 1920, was framed primarily to carry out international obligations arising under the Paris Convention of 1919. In 1947 another Air Navigation Act (c. 18) is needed in view of the Convention and Interim Agreement signed at Chicago at the end of 1944 (Cmd. 6614 of 1945). It gives a wide power of control by Order in Council, allows regulation of " the conditions under which noise and vibration may be caused by aircraft on aerodromes " in relation to the law of nuisance, and exempts aircraft and spare parts from seizure on complaint of the infringement of patents and designs.

National Monopolies.—The nationalisation of transport and electricity accounts for two major measures of 1947. This type of legislation raises several questions. Is the scheme complete or are any types of undertaking left in private hands? What are the degree and method of ministerial responsibility and parliamentary control? How far is management centralised? How are the managers appointed? Does the legislation enjoin efforts to secure economic and efficient operation? Are the previous owners or shareholders being compensated, and, if so, on what basis?

Both the Transport Act (c. 49) and the Electricity Act (c. 54) begin by creating a central body, in the one case the British Transport Commission and in the other the British Electricity Authority. Both Acts early provide that the appropriate Minister may, after consultation with the central body, give it " directions of a general character " as to the exercise and performance by it of its functions as they appear to the Minister to affect the national interest; the central body " shall give effect to any such directions." In framing programmes of reorganisation or development involving substantial outlay on capital account, the central body is to act on lines settled from time to time in consultation with him. Both Acts prescribe that " in the exercise and performance of their functions as to training, education and research " the central bodies shall follow the lines so settled. Both Acts require the central body to make an annual report to the appropriate Minister; he is to lay a copy before Parliament; thus, whatever the scope allowed at question-time in the House of Commons, there will at least be a yearly opportunity for debate.

Transport.—The Minister of Transport is to appoint the chairman of the British Transport Commission and not less than four whole-time members and not more than four others (all being paid and pensionable)—

> " from among persons appearing to be persons who have had wide experience and shown capacity in transport, industrial, commercial or financial matters, in administration or in the organisation of workers."

The Commissioners must not be members of the House of Commons and must not have any financial or other interest such as would prejudice the discharge of their functions. They are given wide powers for the carriage of goods and passengers by rail, road or inland waterway in Great Britain, the provision of port facilities, the operation of hotels, hostels and refreshment places for their passengers and for other persons, and the provision of " amenities and facilities " as deemed necessary or expedient. These express powers will include the construction, purchase or repair of anything required for any of their activities, the advancement of the skill of their employees and of training, education and research, the buying or leasing of land, the housing of employees, and so on. The only specifically excluded powers are the carrying of passengers by road in hackney carriages adapted to carry less than eight persons, the building of ships (other than lighters and barges up to 175 tons), and the construction or manufacture of things required for the hotels and refreshment-rooms. There are also restrictions on the manufacture of chassis or bodies for road vehicles, the purchase of road vehicles for re-sale, and the trading in spare parts or petrol.

Management will be in the hands of five " Executives," acting as the Commission's agents in respect of railways, docks and inland waterways, road transport, London transport and hotels respectively. There will be Consultative Committees, one for Central Transport and others for area transport users. The Commission is not to be exempted from liability to taxation or rates, general or local. The acquired railway and canal undertakings vest in the Commission on January 1, 1948. Compensation will be paid by reference to the values of scheduled securities based on Stock Exchange quotations. The existing undertakings are to be wound up and dissolved; they are forbidden to pay dividends or repay or distribute capital meanwhile. Privately owned railway wagons are taken over at scheduled rates of compensation depending on age and type. Unnecessary canals may be abandoned on the Commission's application to the Minister.

Road transport undertakings carrying goods (dealt with in Part III of the Act) are to be acquired if they carry 40 miles or more and the vehicle is more than 25 miles from its " operating centre." The distance of 40 miles is to be measured along the actual route and not as in s. 34 of the Interpretation Act. Compensation for road vehicles is based on replacement cost; for other property it is the sum which would be fetched by a sale in open market. For passenger road transport (dealt with in Part IV) there are to be co-ordination schemes for areas determined by the Commission. Other schemes will deal with harbours and port facilities. For coastal shipping there will be working agreements and an Advisory Committee.

Part V renames the Railway Rates Tribunal " the Transport Tribunal." The latter takes over various jurisdictions; it will hold inquiries into, and may confirm, draft " charges schemes," and may review the schemes at any time. Part VI contains the Commission's powers of borrowing and of issuing " British transport stock " with a Treasury guarantee. Proper accounts and records must be kept. The annual statement is to give separate information of its principal activities and, with periodical statistics and returns, is to show " the financial and operating results of each such activity." This material with the auditors' report will be part of what is annually laid before Parliament. There are some significant clauses in Part VII about the conditions of employment, pensions and superannuation rights, and compensation where a man's position is worsened by the change. A Transport Arbitration Tribunal with a legal president will settle questions arising out of compulsory acquisition.

Electricity.—The Electricity Act, as already stated, creates a British Electricity Authority to which the Minister of Fuel and Power can give general directions. There are also fourteen Area Boards to which the Authority can give directions

so as to co-ordinate their distribution of electricity and exercise a " general control " over their policy. There will be a Consultative Council for each area. All the assets and liabilities of some 370 municipal and some 190 privately owned electrical undertakings are to vest in the various Boards. Holders of securities which are not securities of a local authority are compensated by the issue of " British electricity stock " of amounts based on Stock Exchange quotations on specified dates. Local authorities are compensated on the basis of the outstanding debt on their undertaking with an added payment for severance and, in certain cases, for capital works. There is a separate scheme for compensating " composite companies "—those which have had statutory powers to supply gas, or gas and water, as well as electricity. As in the Transport Act, dividends are controlled and assets conserved pending the transfer. Foreign investments are a special problem. An Electricity Arbitration Tribunal will settle disputes. The Central Authority is to see that the combined revenues of itself and of all the Area Boards together " are not less than sufficient to meet their combined outgoings." The Authority will fix the tariffs of electricity supply. Besides many other matters of finance and administration, the Act deals with the supply of electricity to railways and with research into the use of heat from generating stations. If our space does not permit fuller description of all these items, mention must be made of at least two provisions of general importance. S. 1 (6) directs the Central and area authorities to promote economical methods of generating, transmitting and distributing electricity, the cheapening of supplies, the avoidance of undue preference, the simplification of charges and the standardisation of systems and fittings. Under s. 60 the Minister may make regulations to ensure that the consumer gets his supply regularly and efficiently and that the public is " protected from any personal injury, fire or other dangers arising from the use of electricity."

Cotton Buying.—The Liverpool Cotton Market was closed in 1941 and a centralised system of controlled purchase was built up. In 1947 the Cotton (Centralised Buying) Act creates another State monopoly (c. 26). As with transport and electricity a central body is created (the Raw Cotton Commission), and a Government department (the Board of Trade) may give it " directions of a general character as to the exercise and performance of its functions in relation to matters appearing . . . to affect the national interest." The Commission must give effect to these directions, must give the Board information of its activities and its property, and must make an annual report which the Board will lay before Parliament.

The Commission's " primary functions " are to buy, import, hold and distribute all raw cotton required for the cotton industry and the re-export trade. It will sell raw cotton at the prices " best calculated to further the public interests in all respects." It will do its best to keep prices as low as is consistent with securing that its revenues suffice (with any appropriation from the reserve fund created by the Act) to meet outgoings " on an average of good and bad years." Only the Commission or its agent (or licensees of the Board of Trade) may import raw cotton. Only the Commission may sell, or agree or offer to sell, otherwise than under a contract providing for delivery outside the United Kingdom. The Commission will consist of a chairman and one or two other whole-time " independent members " chosen for their experience and capacity in industry, commerce, finance or administration or for their special knowledge of the cotton industry or raw cotton merchanting or broking, and up to ten " part-time members " of whom not less than two must have " special knowledge of the interests of operatives employed in the cotton industry " while the others must have special knowledge of the industry or of raw cotton merchanting or broking, but not more than two of these part-timers may be qualified on their industrial, commercial or financial experience without this special knowledge. The Commission may conduct research, and may operate a " cover scheme "

protecting business men from risks due to fluctuations in raw cotton prices. It takes over the cotton assets of the Board of Trade, their value being treated as an initial part of the " periodical advances " which the Board may make to the Commission. These advances may run up to 75 millions (in addition to that initial advance) for revenue account and 10 millions for capital account; they will be repayable out of monthly cash balances. The Commission must keep accounts and have them properly audited for the information of Parliament.

Land and Planning.—The long and complicated Town and Country Planning Act (c. 51) as regards England, and the equivalent statute for Scotland (c. 53), in effect create yet another monopoly for the State. All development rights over land are nationalised; in return a sum of 300 million pounds is set aside by the Exchequer against which claims may be made " in respect of interests in land which are depreciated in value by virtue of the provisions of this Act." Because the State takes these rights, " planning permission " will be required for all development carried out after the " appointed day" (July 1, 1948) and development charges may be imposed. What then is " development "? It is (with certain exceptions specified in s. 12 of the Act and others to be specified in a subsequent Ministerial order)—

> " the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land."

Thus in the upshot anyone who on July 1, 1948, owned or leased any property which could be made more valuable by development would have till June 30, 1949, to put in his claim to the Central Land Board (a new body set up by the 1947 Act) for his share of the 300 millions. As a landowner he must not develop his land (e.g., build on a building site) without permission; if he does, he gets no compensation. If the development is allowed, the State will exact from him the resulting increase in the land value, as assessed by the Central Land Board.

Something should here be said perhaps of the antecedents of this legislation. An Act of 1909 was the first to attempt the statutory planning of the use of land, but it failed to compel local authorities to make schemes, nor did it deal with land already built up. Another statute ten years later let the local authorities go forward with their schemes without waiting for departmental approval. After a consolidating statute of 1925, Parliament turned its attention in 1932 to the built-up areas. The seriousness of the problem was growing; war damage intensified it, and three important documents required attention. One was the Montagu Barlow report (from the Royal Commission on the Distribution of the Industrial Population) emphasising the need of national action or a central national authority.[2] Another was the report of Sir Leslie Scott's Committee on Land Utilisation in Rural Areas.[3] The third was the report of the Uthwatt Committee on Compensation and Betterment.[4] In 1942 the town and country planning functions of the Minister of Health were transferred to a new Minister of Works and Planning, only to be re-transferred next year to a new Minister of Town and Country Planning whom Parliament ordered to frame and execute a national policy. In 1943 a fresh Act did its best to help the local authorities to control the " interim development " which might go on between the date of the local authority's resolution to prepare a scheme and the date when the scheme took effect. In the following year yet another Act was passed to arrange for the " blitzed " as well as the " blighted " areas and for the shift of industries and the " overspill " of displaced populations. And so we come to the 1947 Act which, except for retaining bits of the 1944 Act which it neatly packs into a schedule, makes a fresh start. It orders the local authorities responsible for planning to draw up their plans within three years of the appointed

2. 1940, Cmd. 6153.
3. 1942, Cmd. 6378.
4. 1942, Cmd. 6386.

day and to bring them up to date by revision every five years. In England the primary local planning unit is to be the county or the county borough council.

Other features of the new Act are the stringent control of advertisements (including a power to require removal and provision for " areas of special control "), the " tree preservation orders " for preserving trees or woodlands if " expedient in the interests of amenity," the " building preservation orders " for buildings " of special architectural or historic interest " (the Minister is to compile lists of these buildings, or approve lists compiled by competent persons or bodies, for the guidance of local planning authorities), and the power to require proper maintenance of gardens, vacant sites or other open land. There is power to designate land in a development plan as subject to compulsory acquisition. When a local authority thus acquires land, it will pay merely the value for existing use. The inadequate standard of 1939 values is abandoned as a basis for compensation. New Exchequer grants will give the local authorities considerable help towards the purchase, clearance and redevelopment of land. There are special provisions for special categories of land such as land ripe for development before the appointed day, local authorities' land held for their general statutory purposes, operation land of statutory undertakers, Crown land, requisitioned land, land held on charitable trusts, land with mineral workings or unfinished buildings and so on. Two unobtrusive provisions of this Act may interest students of administrative law. S. 10 (3) allows the Minister, after the parties have been heard at a " local inquiry or other hearing held in connection with a development plan," to consult one side further before making his decisions, without any obligation to consult the other side afresh or to allow it an opportunity for further objections or representations or for attendance at a further hearing. Secondly, under s. 70 (3) the Act delegates legislative power to the Minister to prescribe by regulations (with Treasury consent) the " general principles " on which the Central Land Board will determine a development charge. So much for the Town and Country Planning Act, 1947, which land-owners and local authorities will find a formidable enactment to master. The Town and Country Planning (Scotland) Act, already mentioned, reproduces the statute as it will affect Scotland (c. 53); the sum of 300 millions has to suffice for both England and Scotland.

An Acquisition of Land (Authorisation Procedure) (Scotland) Act similarly reproduces in their application to Scotland (c. 42) the provisions of the corresponding Act of 1946 which related to England.

Agriculture. —Of three Acts concerning agriculture the first (c. 15) deals with the regulation of farm workers' wages. It makes permanent an arrangement which, operating under Defence Regulations, would otherwise expire at the end of the year. The work of the county agricultural wages committees is transferred to new central Agricultural Wages Boards for England and Scotland. These Boards will have the sole responsibility for fixing minimum rates, defining overtime and deciding what benefits (such as free milk or the occupation of a cottage) shall be reckoned as part of the pay.

A second Act (c. 32) sanctions emergency payments by the Minister of Agriculture to encourage farmers who were growing crops on land affected by abnormal flooding. Further, as hill farmers had suffered heavy losses of sheep on account of the difficult climatic conditions, they are allowed to receive their hill sheep subsidy on the basis of the 1946 figures.

The third and longest Agriculture Act (c. 48) contains five parts. It guarantees prices and assures markets for corn, potatoes, sugar beet, milk, fat cattle, sheep and pigs. Next it seeks to promote efficiency by arranging for standards of good estate management for land-owner and standards of good husbandry for farmers and owner-occupiers. Both sides must " fulfil their responsibilities "; if the Minister is satisfied that they are failing in this duty, he may make " supervision orders "; while the orders are in force, he may issue " directions " containing

requirements, restrictions or prohibitions. Non-compliance with the directions is punishable on summary conviction with a fine. If, where a supervision order is in force, the Minister considers that " satisfactory improvement " is not shown, dispossession may follow. In such cases the Minister can purchase the land compulsorily from the owner or take it over from the tenant and see that somebody else farms it properly. On the Minister's periodical review of land under supervision, either the tenant or the landlord may apply for the statutory dispossession. Disputes will go to the Agricultural Land Tribunal for the area. The Tribunal will consist of a legal chairman, a member representing landowners and a member representing farmers; there may be two assessors who are chartered surveyors. The decision is binding on the Minister and, although the Tribunal may in some cases be deciding the ownership of land, there is no appeal to a court.

Part III amends the Agricultural Holdings Acts. It deals with the compensation to a tenant for his improvements and to a landlord for deterioration; the compensation for disturbance and the provisions for notice to quit. Part IV is devoted to small holdings, the availability of land for them, their lay-out and equipment, management, letting and finance, the lists of holdings, the annual reports of progress, and so on. Finally Part V establishes an Agricultural Land Commission (with a Sub-Commission for Wales). Its functions are to manage and farm land which is either vested in the Minister or is his responsibility, and to advise and assist him in matters relating to the management of agricultural land. There will also be County Agricultural Executive Committees to which he may delegate his functions. England and Scotland are to have Agricultural Statistics Advisory Committees. Several sections are devoted to the Minister's power to obtain statistics and information to acquire land by agreement or (if for research, experiment or demonstration) by compulsory purchase or hiring. There may be experimental schemes for adjusting farm boundaries. He may give special directions to secure production and may continue the grants for land drainage, water supply and liming of land. There are more stringent provisions for pest and weed control. An occupier of land may be ordered to prevent the escape of captive animals which do damage. The Minister may make schemes for supplying agricultural goods and services. The new law, in fact, leaves few stones unturned in its effort to promote agricultural efficiency and to facilitate food production.

Forestry.—The shortage of timber and the remoteness of profit on tree planting persuade the Government to assist the landowner who dedicates land to afforestation. The Forestry Act (c. 21) defines the " forestry dedication covenant " into which a private owner can enter. The covenant will run with the land and will protect it from compulsory acquisition. Tenants for life and other limited owners may thus agree that the land shall not (except with the consent of the Forestry Commissioners or under the directions of the Minister of Agriculture) be used otherwise than for growing timber " in accordance with the rules or practice of good husbandry." With appropriate adaptations the Act applies to Scotland as well as to England.

Health.—The National Health Service Act of 1946 applied to England only. In 1947 a similar statute (c.27) makes corresponding provision for Scotland with a few differences. In Scotland, for instance, the health centres will be provided and the ambulance service operated, by the Secretary of State instead of by the local authorities; the endowments of voluntary hospitals will go to hospital boards of management by way of schemes framed by a Hospital Endowments Commission, instead of being pooled and distributed departmentally as in England.

There had been war-time restrictions on penicillin in order to conserve the limited supply. The Penicillin Act (c. 29) now controls its sale and supply, not because it is a dangerous drug, but because unrestricted and indiscriminate access might impair its value. Henceforth it is not to reach the public unless through properly qualified persons, whether doctors, dentists, chemists dispensing prescrip

tions, or veterinary surgeons. If the departments concerned with health in England, Scotland and Northern Ireland so direct by joint regulations made after consultation with the Medical Research Council, the Act will apply to " other anti-microbial organic substances produced by living organisms."

Mention has already been made of the arrangements for Polish doctors and chemists to practise in Britain. The Medical Practitioners and Pharmacists Act (c. 11*) deals more generally with persons whose professional qualifications are not those of the United Kingdom. Many foreign doctors came to Britain to escape Nazi oppression; some obtained British qualifications, others did not. The Medical Act of 1886 restricts admission to the Medical Register on the strength of diplomas obtained abroad to those cases where there is a reciprocal recognition of standards. Reciprocal arrangements, for instance,were made with Belgium, Italy and Japan but were cancelled in 1920, 1940 and 1942 respectively. A temporary solution of the difficulty was made by Defence Regulation 32B during the late war. The temporarily admitted foreign doctor had to accept employment with the British or Allied Forces or in some approved hospital, institution or service. The Emergency Laws (Transitional Powers) Act of 1946 terminated further temporary registrations as from February of that year. The new Act allows permanent registration either as a " Commonwealth practitioner " or a " foreign practitioner." There is a concession for applications made out of time and there is a right of appeal to the Privy Council against refusal of application. Thus far the Act has been dealing with the difficulties of the recent past—the Commonwealth or foreign practitioners registered under the Defence Regulation, the Poles, the men who have served in a medical capacity in His Majesty's forces overseas, and the persons whose character and qualifications are vouched for and who were allowed to enter the United Kindom before August 4, 1947, " in view of circumstances attributable to war." Future registration without examination will be allowed to persons who satisfy the General Medical Council that they are or intend to be here temporarily for employment in a medical capacity in a hospital or other approved institution and that they possess some recognised oversea diploma. Permanent provision of the like kind is made for pharmacists. The Act, by the way, substitutes the word " Commonwealth " for the strangely old-fashioned word " colonial " in Part II of the Act of 1886.

Births and Marriages.—A short Births and Deaths Registration Act authorises the issue in England of a sixpenny birth certificate in a shortened form containing no particulars except the name, surname, sex and date of birth and any other prescribed matters, " not being particulars relating to parentage or adoption " (c. 12). The object of this provision, pressed for by Lord Broughshane in the House of Lords, was to spare persons the pain and embarrassment of disclosing illegitimacy. A similarly shortened form had already been adopted by Scotland.

There were doubts of the validity of some 90 marriages solemnised overseas " within the British lines " by naval and air-force chaplains. Section 22 of the Foreign Marriages Act, 1892, governed marriages of this kind, but, when it spoke of " a British army serving abroad," did it cover the Royal Air Force? And did the words " officiating under the orders of the commanding officer of a British army serving abroad " cover a naval chaplain officiating at a Mediterranean station? A new Foreign Marriages Act (c. 33) validates the doubtful marriages of the past and substitutes a new section 22. Future marriages in a foreign territory will be valid if solemnised by a naval, military or air force chaplain (or anybody else authorised by the commanding Officer of any part of the forces in that territory), provided that at least one of the parties is a member of the forces so serving or a civilian employed there in some capacity prescribed by Order in Council, and provided also that other conditions thus prescribed are complied with. An Order in Council may direct that any part of H.M. dominions occupied by an enemy where the facilities under the local law have not yet been fully restored shall be deemed a foreign territory for this purpose.

Local Government.—War-time experience had shown the need that fire-fighting units should be administered centrally (as a temporary Act of 1941 provided) and not in rigidly demarcated local compartments. The Fire Services Act (c. 41), by a sort of de-nationalisation, nevertheless hands back these services to the larger local authorities. These " fire authorities " will provide fire brigades, equipment and training, arrange for calls in case of fire, see to the efficient water supply and advise on fire prevention and fire escape arrangements. They must join in " reinforcement schemes " for mutual help. They may provide accommodation for the brigade, its equipment and its firemen, and may pay rewards to other people who help to fight fires. They may fix fire alarms, employ their brigades outside their own areas, and allow their services to be used for purposes other than fire-fighting. For ordinary fire-fighting they are to make no charge. The Secretary of State may prescribe standards of efficiency and conditions of service (including hours of duty and leave, ranks and pay, discipline and appeals against dismissal) and he may conduct a central training institution and local centres for training. These uniform provisions supersede previous arrangements often contained in Local Acts. Firemen on duty and constables may " enter and if necessary break into " premises in case of fire and do whatever is necessary. The deliberate giving of false alarms of fire is made punishable on summary conviction.

A brief County Councils Association Expenses (Amendment) Act raises, from £157 10s. to £262 10s., the maximum annual subscription which English County Councils may pay to the Association. An Order in Council may substitute for this increased amount "such other sum as to His Majesty may seem proper" (c. 13).

Early in 1941 the Local Authorities (Community Kitchens and Sale of Food in Public Air Raid Shelters) Order, made under emergency powers, required local authorities " to perform the functions of setting up community feeding centres " in their areas. The powers being temporary and the future of these " British restaurants " being uncertain, the Civic Restaurants Act, 1947 (c.22) allows English and Scottish local authorities to " establish and carry on restaurants and otherwise provide for the supply to the public of meals and refreshments," along with such activities as are " reasonably incidental or ancillary " thereto. A proviso checked the sale of alcoholic liquor in Scotland authorised its sale in England but only " for consumption in the restaurant with a meal," and restricted its supply in any restaurant established in religious premises. The authorities which exercise these powers must " use their best endeavours " to insure that their income under the Act is sufficient to defray the expenses of the restaurants. They must keep accounts; if there is a deficit in each of three consecutive financial years, they will forfeit their powers unless the Minister of Food finds justification for a further continuance.

The important Local Government (Scotland) Act, consolidating and amending the law and removing anomalies, has already been mentioned. A short Education (Exemptions) (Scotland) Act, replacing a Defence Regulation which was about to expire, allows children to be exempted from school attendance so that they may help lift the potato crop (c. 36).

Trade and Industry.—A planned economy must be based on statistical surveys which mean the filling up of forms. The Statistics of Trade Act (c. 39) empowers certain Government departments (the Treasury, any Secretary of State, the Admiralty, the Board of Trade and eleven other Ministries) to obtain—

> " the information necessary for the appreciation of economic trends and the provision of a statistical service for industry and for the discharge by Government departments of their functions "

by means of periodical or other estimates or returns. The inquiries may range over the nature of the undertaking, the date of its acquisition, the work, pay and

hours of employees, the output, sales and deliveries, the orders, stocks and work n progress, the outgoings, costs and capital expenditure, the receipts and debts, he power used or generated, the fixed capital assets, the plant and the premises ccupied. If this is not enough, an Order in Council may add to the list. The ld Census of Production Acts are repealed. They demanded a census every five ears, the new Act wants one every single year. Moreover anyone who enters r leaves the United Kingdom by air may be ordered by the Board of Trade o give—

> " particulars of his age, sex and marriage and of the nature of his occupation, and particulars of the country in which he last permanently resided and the country in which he intends next permanently to reside."

The reports of the informal " working parties " set up in various industries ad recommended the establishment of " development councils " which presumably promote co-operation between managers and workers. The Industrial Organisation and Development Act (c. 40) enables development councils to be established in any industry in order to increase efficiency or productivity, improve the service rendered to the community and make it operate more economically. Eight Government departments are empowered to make a " development council rder." Before making it, they must consult organisations appearing to represent substantial numbers of persons engaged in the industry; an order is not to be made unless a substantial number of those persons desires it. A council will consist of persons capable of representing the business interests concerned, representatives of the persons employed, and " independent members " who have no financial or industrial interest therein. Expenses may be met by a levy on persons carrying on the business of the industry. Where an industry has no development council, there may be a levy to pay for scientific research, promotion of export trade or the improvement of design. The scheduled functions which may be assigned to a development council consist of twenty generously wide activities. They cover research, management problems, industrial psychology, standardised marketing, training and technical education, safety measures, industrial diseases, recruitment, distribution, export trade, publicity overseas, the collection of statistics and other matters.

Company Law.—In 1929 the law of companies was consolidated after an amending Act had made changes recommended by the expert Greene Committee. In 1947 another amending Act (c. 47) gives effect, with a few exceptions, to the recommendations of the expert committee presided over by Mr. Justice (now Lord Justice) Cohen.[5] Some, at any rate, of the many amendments may be mentioned here. The length of notice of company meetings is increased from to 21 days; members are allowed to circulate notices of any resolutions which they will be moving at the meeting, with a statement in support. The right to demand a poll is extended; voting by proxy is facilitated. Company balance-sheets and profit and loss accounts must " give a fair and true view." Subsidiary " and " holding company " are defined; there are special requirements for the group accounts and the " consolidated " information. Audit is stiffened. As for company directors, their appointment is to be voted separately, not by a single resolution for several. They must retire at 70 unless the members otherwise resolve after special notice. Directors are not to receive tax-free payments or loans from the company. Any payment for loss of office or on retirement must be disclosed and properly approved. A director's holding of shares or debentures in the company, subsidiary or holding company must be shown in a register. The aggregate amounts of directors' emoluments, ex-directors' persions, and payments for loss of office must also be made public. If any one is convicted of a company offence or is

5. The Cohen Committee report was published (Cmd. 6659) in 1945. The memorandum prefixed to the 1947 Bill identified, by the use of parallel columns, the paragraphs of the report relating to particular clauses.

found guilty of fraud in the course of a winding up or otherwise, the court may bar him from directing or taking any part in managing a company for a period up to five years. There are improved powers of inspection on members' applications. There are new provisions for share allotments and prospectuses and for civil and criminal liability in respect of mis-statements. The power of the registrar under the Registration of Business Names Act, 1916, to refuse to register names is extended to any name which is in his opinion undesirable. Winding up, the enforcement and registration of charges, unit trusts—there are some of the miscellaneous matters which the new Act covers. It comes into force on a date or dates appointed by the Board of Trade.[6]

Crown Proceedings.—It has been notoriously difficult to sue the Crown in England. It is true that, where wrongs were committed by Crown servants, this difficulty was mitigated by the departmental practice of nominating some defendant against whom the proceedings could be taken and by paying from public funds any damages awarded against him. Judicial comment in the House of Lords,[7] however, discountenanced this device of a "nominal" or "nominated" defendant, and thus stimulated amendment of the law. The strong committee set up by Lord Chancellor Birkenhead in 1921 had appended to its report[8] a draft Bill framed by Sir William Graham-Harrison, and its proposals, revised and elaborated, became law at last in 1947 as the Crown Proceedings Act (c. 44). Some archaic forms of procedure—petitions of right, Latin and English informations and other mysteries which not every lawyer comprehended—are abolished. Civil proceedings by or against the Crown are to be regulated by rules of court and the Crown may be sued in a county court (ss. 13, 15 and 35). The Treasury is to publish a list of "authorised departments" by and against which proceedings may be taken. Courts may grant any remedy against the Crown except an injunction, a decree of specific performance or an order for specific restitution (s. 21). These and other procedural provisions make up Part II of the Act; judgments and executions are dealt with in Part III; Part IV amongst other things permits for the first time the courts to require the Crown to answer interrogatories and to make discovery of documents and produce documents for inspection, subject to the over-riding needs of protecting the public interest. The rules of court may allow non-disclosure of the existence of a document.

We have still to note the substantive changes effected by Part I of the Act. Previously the Crown could (except for pure tort) be sued by way of petition of right if, as always happened where any merits appeared in the claim, His Majesty's fiat was first granted. Henceforth, so far as practicable, the subject has an absolute right to sue the Crown in any case where the claim falls within the scope of existing remedies against the Crown. The Crown in its public capacity is placed, for the purposes of torts, in the same position as a private person. The Crown will substantially be liable in tort for the acts and defaults of its servants. This liability will include cases of infringement of trade marks, copyright, patents and designs, subject only to the existing right of the departments to use these privileges on payment of compensation. The special circumstances of Crown ships, Crown docks, harbours and canals, and salvage claims are treated separately; so is the old problem of liability for postal packets. There are separate provisions too for members of the armed forces; a soldier wounded in the charge of the Light Brigade could hardly be allowed to claim damages because he thought "someone had blundered."

6. The consolidating Act of 1948 came into force on July 1, 1948, on which date all the provisions of the 1947 Act were first in operation: see 11 & 12 Geo. 6. c. 3 s. 462 (2).

7. See Adams v. Naylor [1946] A.C. 543.

8. The report appeared in 1927 (Cmd. 2842). For the Committee's unhurried progress see *Law Quarterly Review* (1935), Vol. LI, pp. 62-3.

9. The observations in Duncan v. Cammell Laird & Co. Ltd. (the Thetis case) [1942] A.C. 624 will be recalled.

Currency and Finance.—The Exchange Control Act (c. 14) reflects the istressing condition in which Britain finds herself, her foreign investments lost nd a heavy foreign debt accumulated. Defence Regulations had dealt with ıe situation, and the Supplies and Services (Transitional Powers) Act, 1945, had ubstantially continued them. The new Act rewrites these war-time controls in ermanent statutory form. Part I renews the grip (mainly applied through the anks) of gold and foreign exchange, with a fresh provision for travellers' ıeques. Part II covers payments whether within or outside the United Kingdom; 7 ("compensation deals") catches the class of payment which gets value broad without seeming to remit money. Part III deals with securities on lines ımiliar in the Defence (Finance) Regulations, but without preserving the reasury's power of compulsory purchase of foreign securities at the market price.

It is a drastic Act. The formidable phrase "except with the permission of ıe Treasury" occurs at least forty times, usually at the head of some prohibitory ction.

The first of two Finance Acts (c. 35) abolishes the duties on artificial silk, ıel oil and gas oil and reduces the purchase tax on articles ranging from sports ar and floor coverings to toothpicks, mirrors and hot-water bottles. The earned ıcome relief goes up from one-eighth to one-sixth, the maximum being raised om £150 to £250; the allowance for a child is raised from £50 to £60. Members the Territorial Army get a welcome relief from income tax on their training penses allowances and their annual bounty for efficiency. On the other hand ıe tobacco duty is increased in order to save dollars, though Treasury regulations e to arrange relief for pensioners. Some difficult sections impose a tax of 5% ı undistributed, and 12½% on distributed, profits of companies. There is a new x on bonus issues. The substantial stamp duties on admission to the legal ofession in England and Scotland are dropped, but other stamp duties (such those on Stock Exchange transactions) are doubled. Legacy and succession ıties are increased, but there are more generous reliefs for small legacies.

In December the Finance (No. 2) Act raises more money (c. 9*). Beer goes by another penny a pint. Drinkers of spirits and wines increase their contribuon to national stability. Purchase tax is raised. The rates of companies' profits x are doubled. Interest at 3 per cent is to be charged on all arrears (if over ree months and exceeding £1,000) of unpaid surtax, excess profits tax and cerin other imposts. There is a new "pool betting duty" (10 per cent of the stake) on all bets made by way of pool betting, other than bets made by means of totalisator set up on an approved horse racecourse by or under the authority the Racecourse Betting Control Board." This will catch betting on dog-race talisators and football pools.

A Public Works Loans Act (c. 13*) grants money up to 250 millions for local ans probably needed mainly for housing, and a Housing (Temporary Accomodation) Act (c. 6*) gives the Minister of Works another 20 millions to pay for the manufacture, construction or erection of structures." A Trustee Savings ınk Act (c. 6) is mainly concerned with superannuation. The officers of these ınks will now be able on retirement to allocate a part of their pensions for the nefit of their wives or husbands; death gratuities can be paid to a legal personal presentative if the deceased officer had five (instead of the previously prescribed ı) years' service; the banks may set aside special "superannuation reserves" pay their employees' pensions instead of the money being drawn from the neral funds; and they may establish contributory pension schemes. The banks eady have power to set up new branches; they now receive authority for vancing sums to enable another trustee savings bank to extend its operations for creating a new bank.

Pensions.—There are other new provisions for superannuation. A temporary nsions (Increase) Act of 1944 is amended and made permanent (c. 7). The nsion limits and pension rates are substantially raised; not only civil servants

but also teachers, policemen, firemen and local government officials will benefit.

The Pensions (Governors of Dominions, &c.) Acts of 1911 and 1936 obliged governor to serve till he was sixty, and to have had at least ten years' servic before he could retire on pension, though the 1936 Act reduced those ten yea to three for a governor who, immediately before his appointment, was a permaner civil servant and who had been employed for at least ten years either as governc or civil servant. In 1947 an amending Act (c. 12*) brings the age limit dow from 60 to 55, increases the pension rates and the maximum amounts of pension and repeals provisions which reduced pensions in cases of premature retirement

A Probation Officers (Superannuation) Act brings probation officers and the clerks into superannuation schemes (c. 38). The officers' pensions had bee initiated under Part I of the Criminal Justice Act, 1925, at a time when there wa no general provision for local government officials. Their clerks had no statutor arrangements for pensions at all. A Greenwich Hospital Act (c. 5) modernis older statutes by removing restrictions on the amount of special pensions an of the sums which may be spent on the education and maintenance of children.

The perpetual pension settled by Parliament on the holder of the earldom Nelson might have been commuted (as others have been[10]) with the approval the court under the Consolidated Fund (Permanent Charges Redemption) Act 1873. It survived to be terminated in 1947 by the Trafalgar Estates Act (c. 3 as from the death of the fourth Earl Nelson and his brother, the next heir to th title. The Act allows the tenant in tail of the Trafalgar Estates to appoint truste for sale as under the Settled Land Act of 1925.

Miscellaneous.—The name of another hero for whose victories his countr was grateful is recalled by the Wellington Museum Act (c. 46). The seventh Du of Wellington presents to the nation Apsley House in Piccadilly, together wi certain relics of the victor of Waterloo. Part of the building is reserved as residence for the holder of the title so long as the dukedom exists. A Pub Offices (Site) Act enables the Minister of Works to acquire the site of the Hospit opposite Westminster Abbey and to erect thereon new buildings for pub offices (c. 45).

A Summer Time Act (c. 16) prescribes "double summer time"—*i.e.* th advance of two hours instead of one hour ahead of Greenwich mean time—ff part of 1947; it also allows the advancement of time in future summers by eith one hour or two hours as may be directed by Order in Council. Betting licensed dog racecourses is limited to Saturdays and certain other days by th Dog Racecourse Betting (Temporary Provisions) Act; such betting is not begin on Saturdays before 1 p.m. (c. 20). In effect, in order not to distra workers from the drive for increased production, mid-week race meetings a temporarily abolished and a small concession is made for additional racing Saturdays.

Defence Regulation 72 (6) had allowed provisional 12-month driving licenc to be granted to war-time drivers of motor-vehicles. This exemption is replac by the Road Traffic (Driving Licences) Act which limits the period of validity future provisional licences to three months and limits their purpose to the obje of learning to drive so as the pass the driving test (c. 8). Applicants who ha held war-time provisional licences, if they have not been guilty of a drivi offence, may obtain a driving licence as though they had passed the test. By small amendment of the law the fees payable in respect of driving tests w henceforth go to the Exchequer.

The number of Lords of Appeal in Ordinary will be increased from seven nine by the Appellate Jurisdiction Act (c. 11) if at any time the arrears in the li of House of Lords appeals justify this recruitment of judicial strength.

10. For example, the Rodney pension conferred by 33 Geo. 3 c. 77, which was cons quently repealed as spent by the Statute Law Revision Act, 1948.

Delegated Legislation.—The total of Statutory Rules and Orders registered uring 1947 under s. 3 of the Rules Publication Act was 2916. Those of public eneral character, officially published as usual in collected form with an index and abular matter, fill three volumes, one volume containing nothing but the emer- ency orders issued under Defence Regulations. The orders made under the Vages Councils Act of 1945 alone occupy 450 pages. These volumes also contain uch varied matters as the Double Taxation Relief Orders in Council, regulations or the police, prison rules for Scotland, and regulations for organising the new ational health service. There is also the shortened form of birth certificate for se in England. This might more conveniently have been set out in the Act hich, as already mentioned, authorises the new form; the exact contents of the rm must have been determined when the form of the Act was settled. Forms, owever, are matters which it is usual for a statute to remit to subordinate gislation. Those who study these matters will know how extensive and how dispensable is the modern delegation of legislative authority.

2. NORTHERN IRELAND.

[*Contributed by* W. A. Leitch, Esq.]

The comprehensive scope of the Northern Ireland Parliament's activities during 947 is shown by the fact that they virtually traversed the whole gamut existence in their legislation by legislating, *inter alia,* about registration of rths, youth welfare, employment, pensions and superannuation. The more portant of the 24 Acts passed are summarised below.

Frustrated Contracts.—Although the Law Reform (Frustrated Contracts) Act, assed at Westminster in 1943, applies, *prima facie,* to Northern Ireland, it is robable that it would only be applied when the proper law of the contract in uestion was that of Great Britain, so that contracts governed by the law of orthern Ireland are not covered. The Frustrated Contracts Act (c. 2) adjusts he rights of parties to a contract covered by the Act which becomes frustrated ter March 1, 1947. Parties will be able to recover money whether the failure consideration is total or partial, to retain any sum for reasonable expenses curred before the frustration and liable to account to each other for any benefit btained under the contract (s. 1 (2), (3)). Voyage charter parties, contracts her than charter parties for the carriage of goods by sea, contracts of insurance nd certain contracts for the sale of goods are outside the Act (s. 2 (5)). The ide discretion given to the Court by this Act will enable substantial justice to e done.

County Courts.—S. 1 of the County Courts (Salaries and Rules) Act (c. 16) creases the salary of the Recorder of Belfast to £2,500 per annum, and the muneration paid to other county court judges, including the Recorder of London- rry to £2,000 per annum. Having effected this substantial change, the Act es on, in ss. 2 and 3, to constitute a County Court Rules Committee to perform r the county court the functions which the Supreme Court Rules Committee ercises in relation to the High Court. The Lord Chief Justice has the power of ppointment of the Committee, which consists of two county court judges, a ember of the Bar nominated by the General Council of the Bar, a solicitor minated by the Incorporated Law Society, and a Clerk of the Crown and Peace. he Committee is given wide-rule-making powers and in addition has power to al with certain specific matters. One of these latter is the making of rules in cordance with which undefended actions and actions involving amounts not ceeding £10, may be heard by the Registrar for Belfast or the Clerk of the rown and Peace instead of the Recorder. In the latter type of case however, the egistrar or Clerk may only hear the matter if the parties apply for such hearing the Recorder, and the Recorder gives his consent.

Finance.—Part I of the first Finance Act of the year (c. 15), deals with deat duties. The rate of legacy and succession duty, except on charitable bequests, doubled by s. 1, while s. 2 raises to £2,000 the limit for relief of unsettled propert from aggregation for estate duty purposes and from liability to legacy an succession duty. The rate of interest payable on death duties is reduced fro 3% to 2% by s. 3. Part II of the Act deals with excise duties, and provides fc licences for the sale of liquor on aircraft and for increased exemption of certai entertainments from entertainments duty. Part III relates to stamp duties, thos on conveyances or transfers by way of sale or voluntary disposition being doublec with certain exceptions, by ss. 6 - 9. The existing stamp duty charged o customs bonds is extended to cover a bond given in respect of articles subject t purchase tax (s. 10) and the time for payment of companies capital duty by certai statutory and other companies is altered (s. 11).

The Finance (No. 2) Act (c. 22) introduces, in Part I, a flat rate of duty c £10 on private motor cars first registered under the Roads Act, 1920, on or afte January 1, 1947. This duty will not apply to cars whose first registration take place in Northern Ireland after that date if it has been registered outside Norther Ireland before that date, nor will it apply to cars registered before that date which will continue to be taxable on the horse power basis at the rate of 25/- pe unit of horse power. The new flat rate operates as from January 1, 1948. Part I provides for reduced rates of estate duty on agricultural property. An " agricu tural value " will be determined for agricultural property comprised in the estat of a person dying after the commencement of the Act (December 23, 1947) an the reduced rate of estate duty will be charged on that agricultural value. B s. 3 (2), agricultural value is " to be taken to be the value which the propert would bear if it were subject to a perpetual covenant prohibiting its use otherwis than as agricultural property, decreased by the value of any timber, trees, woo or underwood growing thereon." The ordinary rates will apply to the excess c the principal value of the agricultural property over the agricultural value. Th stamp duty chargeable on conveyances, etc., by Part III of the first Act is nc (according to Part III of the second Act), to be charged on conveyances, transfe and leases made for charitable purposes, which will be charged at the former ra of stamp duty. Various amendments of the law relating to entertainments dut were made by ss. 7 - 10.

Assurance Companies.—S. 12 of the Assurance Companies Act, passed a Westminster in 1946, enabled the Parliament of Northern Ireland to enact simila legislation despite the restriction on its powers imposed by the Government c Ireland Act, 1920. This allows the Northern Ireland Act to deal with suc matters as the operations of assurance companies outside Northern Ireland. S. adds marine insurance to the classes of business to which the Assurance Compani Act, 1909, applies. Aviation and trustee insurance business are also included i the same class. Companies carrying on business of this type will not be subje to all the restrictions imposed by the 1909 Act, though ss. 2 - 4 are designed t ensure that only companies which are financially sound will embark on business this kind. While the £20,000 deposit in court required by s. 2 of the 1909 A is abolished, this business can only be carried on by an incorporated compan having a paid-up capital of £50,000; a company will be deemed to be unable t pay its debts if, two years after commencing to carry on business, it has not th required margin of solvency—assets exceeding liabilities by £50,000 or one-ten of the general premium income of the company in its last preceding financi year. A company unable to pay its debts will be liable to be wound up. company carrying on business immediately before December 1, 1946, will not b required to have the stipulated amount of capital if it is carrying on a class business mentioned in the 1909 Act and does not extend its activities to anoth class of business. Such a company will not, however, be an authorised insur within s. 16 of the United Kingdom Air Navigation Act, 1936, unless it has th

required amount of capital. If an existing company satisfies the Ministry of Commerce that it has the full margin of solvency described above, it may withdraw its deposit. The solvency provision will not apply to an existing company until two years after the commencement of the Act unless it withdraws its deposit or commences to carry on some new type of business. These provisions as to deposits entail consequential modifications in Part II of the Motor Vehicles and Road Traffic Act, 1930, and s. 16 of the Air Navigation Act, 1936. S. 5 defines an authorised insurer for the purposes of these enactments as any person or body of persons lawfully carrying on in the United Kingdom assurance business of the relevant class. The enforcement provisions contained in ss. 8 - 10 include a new power given to the Ministry of Commerce to present, with leave of the court, a petition for the winding up of the company because it is, or is deemed to be, unable to pay its debts.

Registration of Births.—The Births and Deaths Registration Act (c. 11) is concerned with a shortened form of birth certificate and with the fees payable to registrars by boards of guardians for their registration work. As from January 1, 1948, an abbreviated form of birth certificate will be issued by the Registrar General on payment of 6d.; this certificate need not disclose details of parentage or adoption (s. 1). The object of this section is to avoid unnecessary suffering to persons born out of wedlock, but the full form of certificate will, of course, be necessary where the details of parentage are required. S. 2 supersedes the old method of payment of a registrar by the board of guardians at the rate of 1/- per entry of birth or death. The remuneration of registrars for this work is to be governed by regulations prescribed by the Ministry of Finance.

Drainage and Fisheries.—Under the Drainage Act (c. 9) the Ministry of Agriculture is made the drainage authority in Northern Ireland responsible for the maintenance of main watercourses as classified by the Drainage Council set up under s. 1. The wide powers necessary to carry out new drainage works are conferred by s. 3 which also, with the Third Schedule, deals with the compulsory acquisition of land on payment of compensation. The procedure to be followed in the preparation of drainage schemes is set out in Part II. Notice is to be given to interested parties (s. 5) and time allowed for observations before confirmation of such a scheme by means of an order. The Ministry's powers in relation to such schemes are set out in s. 7, while under s. 10 claims for compensation by owners or occupiers are to be heard by an arbitrator. By s. 11 damage to canals, inland waterways, water and fishing rights, which has been caused by the Ministry's activities may be compensated if an action for damages would lie apart from the Act and if a claim is made within 10 years from damage to a fishing right or one year from damage to any other right. Where property has been acquired by the Ministry for the purposes of a scheme the Ministry is obliged to dispose of it after the completion of drainage works, except that necessary for maintenance purposes. A three months' option to repurchase is given to the former owner or his successor in title (s. 13). Part III transfers the powers of existing drainage authorities to the Ministry, to whom also trustees under any drainage trust may transfer their powers. Part IV deals with the maintenance of watercourses, and s. 19 re-enacts the obligations of county councils in this matter.

Another measure which is concerned with a similar topic is the Fisheries (Flax Water) Act (c. 12). In s. 1 the provisions of s. 80 of the Fisheries (Ireland) Act, 1842, relating to the steeping of flax in rivers or lakes are re-enacted and become offences under this Act. A new offence, the discharging of deleterious flax water into any river or lake between July 1 and November 30 in any year, is created by s. 2 while s. 3 re-enacts s. 80 of the 1842 Act in relation to the discharging of flax water, whether deleterious or not, into rivers and lakes, between December 1 of one year and May 31 in the next succeeding year. All persons by or on whose behalf flax has been steeped

are obliged to provide suitable and sufficient means of disposing of flax water (s. 4), while under s. 8 the Ministry may make grants of up to 75% of the cost of constructing catchment dams or providing other means of discharging flax water.

Animals.—The Artificial Insemination of Animals Act (c. 17) enables the Ministry of Agriculture to provide artificial insemination centres and to carry on reasearch in this matter (ss. 1 and 2). The Act follows the lines of the English Act of 1943 (6 & 7 Geo. 6, c. 16).

Employment.—Under the Safeguarding of Employment Act (c. 24), a person who is not a "Northern Ireland worker" is prohibited by s. 2 (1) from taking up employment in Northern Ireland unless authorised to do so by a permit issued by the Ministry of Labour and National Insurance, apparently at its discretion (s. 3). The term "Northern Ireland worker" is defined in s. 1 and includes those born in Northern Ireland, ordinarily resident there immediately before January 1, 1940, ordinarily resident there for at least 10 of 20 consecutive years ending on or after the date of the passing of the Act, married to a person born in Northern Ireland, and children of parents born in Northern Ireland and residing with them when the Act was passed. S. 2 (6) and the Schedule exclude a number of employments from the provisions of the Act while s. 7 enables the Ministry to extend these exemptions by means of an order laid before Parliament. S. 2 (4) makes a person contravening the Act and his employer (if the latter is aware of the contravention) guilty of a summary offence. S. 6 throws the onus of proof on a person whom the Ministry has reasonable cause to believe is not a Northern Ireland worker. The Ministry may serve a notice requiring such a person to satisfy it, within twenty-one days, that he is a Northern Ireland worker, and his failure to do so shall be sufficient proof, on prosecution, that he is not a Northern Ireland worker. This relieves the Ministry from the burden of proving a negative proposition—that a defendant was not at the material time a Northern Ireland worker.

Education (C. 3).—Although this Act provides for an important social service, and repeals almost all of the existing education legislation it does not call for any legal comment on its provisions. The long title of the Act "to reform the law relating to education in Northern Ireland and for purposes connected with the said matters," is an indication of the comprehensiveness of its scope.

Housing.—Another matter of great social importance—the provision of houses—is dealt with in the Small Dwellings Acquisition Act (c. 8) one of the series which enables local authorities to make advances to persons intending to buy or build houses. By s. 1 (1) the limit of the market value of a house in respect of which an advance can be made is raised from £1,200 to £1,750, while by s. 1 (2) the Ministry of Health will have power, after March 31, 1949, to vary this figure by means of an order laid before Parliament.

3. ISLE OF MAN.

[*Contributed by* His Honour R. D. Farrant.]

The Insular Legislature promulgated some Acts of general public interest as follows:—

Social Services.—An Act transfers to the Isle of Man Board of Social Services the powers of the Mental Hospital Board under the Poor Relief Acts.

Under this Act the management of the Infirmary, as the Poor Asylum is now called, is transferred from the Mental Hospital Board, as the Asylums Board is now called, to the Isle of Man Board of Social Services which succeeded to the powers and duties of the National Insurance Board, to be used under the provisions of the Poor Relief Acts, 1893 to 1948, and various amendments were made in such Acts.

See of Sodor and Man.—Under an Act to amend the law as to the endowments and property of the See of Sodor and Man, the Bishop, with the approval of the Governor, and the Church Commissioners, may sell all or any part of the Bishop's property (excluding Bishops Court) on such terms as the Bishop with the like approval thinks fit, and may, with the approval of the Governor, the Church Commissioners, the Diocesan Conference and Tynwald, sell Bishops Court or any part of it or convert it for use for such other purposes as the Bishop with the like approval may think proper or may demolish it or any part of it. The Diocesan Finance Board may use the Diocesan Trust Fund established by the Church Act, 1945, in payment of certain expenses and then in payment to the Bishop of a sum required to raise the Bishop's salary to £2,250, and use any balance for any other Diocesan purpose. Power is also given to the Vicar and Wardens of any Parish to sell or let any real estate vested in them. The liability of the Bishop and the Rectors for the repair and maintenance of the Chancels of certain Parish Churches is terminated.

Betting.—An Act to amend the law relating to pari mutuel or pool betting operations, and to amend the law relative to device certificates prohibits under penalty the distribution for reward of pamphlets or leaflets descriptive of, or calculated to act as an inducement to participate in pari mutuel or pool betting or causing persons to so participate for reward and provides for the previous granting of a licence by the Chief Constable before a device certificate may be used and which shall not then be deemed to be an unlawful lottery.

Juries.—An Act to amend the law relative to trials of civil cases with or without a jury and relating to jurors' fees and procedure provides that on the application of any party to an action the Court may order such action to be tried with a jury, otherwise any action may in the discretion of the Court be tried with or without a jury and provisions are made for allowing jurors daily allowances and reasonable travelling expenses.

In the *Pensions Increase Act,* 1947, provision is made for increase of Old Age Pensions to Pensioners owning £300 a year or less.

By the *Licensing Act,* 1947, certain amendments were made in the Intoxicating Liquor Licensing Acts mostly as to the fees payable for licences.

Local Government.—The hours of the opening and closing of polls for Local Government Elections were extended and provision made for the recording of the votes of persons incapacitated by age or infirmity.

Liquor Licensing.—An Act was passed to merge British Wine licences into General Public House licences and to amend the provisions of the existing Acts as to accommodation in public houses.

Rural Housing.—The Rural Housing Act, 1947, provides for financial assistance towards adequate housing accommodation for persons engaged in agriculture and to compel the repair of agricultural buildings.

Exchange.—The provisions of the Exchange Control Act, 1947, were extended to the Isle of Man by Order in Council under the powers of a special section of such Act.

Civil Service.—An Act was passed providing for the award of compensation to the Officers of Boards of Tynwald whose employment had been terminated by the dissolution of such Board.

Midwives.—The Nurses and Midwives Act, 1947, provided for the registration of midwives, and the prohibition of unqualified persons acting as maternity nurses.

Firearms.—The Firearms Act, 1947, made provision for the possession and sale of firearms generally on the lines of the Imperial Act of 1937.

Pharmacy.—The Pharmacy and Poisons Act, 1947, made further provision for the use and supply of poisons—who might keep and sell them and otherwise.

Maintenance.—Provisions were made for the raising of the maximum sums, to be allotted to a married woman deserted by her husband, by the Married Persons Protection Act.

Witnesses' Fees.—Constables' Fees and Witnesses' Wages at Inquests of Death and on other occasions were fixed by the Constables' and Witnesses' Allowances Act.

4. EIRE.

[*Contributed by* A. Denis Pringle, Esq., K.C., *Senior Counsel.*]

No less than fifty Public Acts were passed during the year, but the following are the only ones which would appear to be of more than local interest.

Air.—The Customs-Free Airport Act (No. 5) provides for the establishment of a customs-free airport under the control of the Minister for Industry and Commerce. The ordinary customs laws apply to traffic between the airport and other parts of the State. Goods may not be brought into the airport for personal use or consumption or sale by retail therein except from another part of the State. Extensive powers of search are given to customs officers, who may also stop and search vehicles within twenty miles of the airport.

Auctioneers.—The Auctioneers' and House-Agents Act (No. 10) makes it illegal for any person to carry on, or represent himself as carrying on the business of auctioneer, or to conduct an auction, except under and in accordance with a licence or permit issued by the Revenue Commissioners. Auctions by customs officers, sheriffs, income-tax and rate collectors are excepted, and also an auction of fresh fish and an auction by a person of his own property. Similarly, a person may not act as a house agent except under licence, unless he is either a licensed auctioneer, a solicitor, or a person acting as agent for a public body or person authorised to acquire land compulsorily. In order to obtain a licence, the applicant must obtain a certificate of qualification, lodge and maintain in the High Court a deposit (either in money, securities, or guarantee bond) of two thousand pounds and pay the appropriate excise duty on the licence. Certificates of qualification are obtained by application to the appropriate District Justice. Provision is made for the payment of sums obtained by judgments against auctioneers or house agents out of their deposit, and for the cancellation or suspension of licences where the holder is convicted of an offence involving fraud, dishonesty, or breach of trust, and the court in such a case may also disqualify such convicted person from holding a licence for a specified period.

Constitution.—The Sinn Fein Funds Act (No. 13) provided by s. 10 that on the passing of the Act all proceedings in the pending action of *Buckley and Others v. The Attorney General and Another* should be stayed, and that the High Court should, on application *ex parte* on behalf of the Attorney General, dismiss the action and direct the money lodged in Court to be paid out to a Board appointed under the Act, which was empowered after payment of the costs of all parties to the action, to make payments out of the balance to certain " qualified persons " (specified in the Act as persons who are in needy circumstances and who either gave service in the National Cause, or who are dependants of such persons). The action in question had been brought to determine the ownership of certain monies which had been collected for Sinn Fein, and the plaintiffs claimed to be entitled thereto. After the passing of the Act, an application was made, as provided therein, by the Attorney General and the President of the High Court refused to make the order asked for, holding that the portion of the Act referred to was unconstitutional. An appeal was brought against this decision and the Supreme Court upheld the decision of the President, holding that the provisions of the Act providing for the dismissal of the action and the payment out of the

oney, infringed the provisions of the Constitution in *two* respects, *first* that they ere repugnant to the solemn declarations as to the rights of private property ntained in Article 43, and *second* that they were an unwarrantable interference the Legislature with the operations of the Courts, in a purely judicial domain. he importance of this decision (which, at the time of writing, has not been ficially reported) will be appreciated, as confirming in Eire the independence the Courts.

Deeds of Bravery.—The Deeds of Bravery Act (No. 11) provides for the tablishment of a Council for the purpose of making awards of medals and rtificates to persons performing a deed of bravery (defined as " an effort to save ıman life involving personal risk "), either in the State, at sea by a member of e crew of an Irish ship, or outside the State by a person assisting a member of e crew or a passenger in an Irish ship or aircraft. The Minister for Justice is ıpowered to pay compensation to the recipient of an award under the Act, or his dependants. Deeds of bravery by members of the Defence Forces on active rvice are excluded from the Act.

Constitution.—The Seanad Electoral (Panel Members) Act (No. 42) contains somewhat complicated new procedure for the election of members to the Senate. ıe candidates are divided into panels and are in the first instance nominated her by four members of the oireachtas, or by certain registered nominating dies. The final election from the candidates on the various panels is made by e members of the Dail, Seanad and County Councils and Boroughs. The panels ıich are prescribed in Article 18, s. 7 of the Constitution, are *five* in number, as llows:—

1. The Cultural and Educational Panel,
2. The Agricultural Panel,
3. The Labour Panel,
4. The Industrial and Commercial Panel, and
5. The Administrative Panel.

rty-nine members of the Senate are elected in the manner prescribed by the Act d the remaining eleven members are nominated by the Prime Minister.

The Electoral (Amendment) Act (No. 31) increases the number of members Dail Eireann from 138 to 147, and revises certain constituencies.

Agriculture.—Three Acts of importance to farmers were passed during the year. e Live Stock (Artificial Insemination) Act (No. 32) intitles the Minister for riculture to make regulations for controlling the practice of artificial insemina- ı of cattle, sheep, goats, swine and horses and in particular for prohibiting the tribution and sale of the semen of such animals except under licence. The ıort and import of semen except under licence is prohibited. The Clean Wool t (No. 27) makes provision for improving the cleanliness of raw wool. It con- ıs a prohibition against dealings in wool in which any prohibited substance , for instance, tar, pitch, or paint incapable of being removed by scouring) is sent. The Minister is given power to prohibit the use of any particular ıstance for branding sheep, and the manufacture or use of a sheep dip which ıarts a stain or colour to the wool is prohibited. The Poultry Hatcheries Act). 49) prohibits the operation of a poultry hatchery, save under and in ordance with a licence granted by the Minister, and provides that the holder such a licence shall not use for hatching any eggs except those produced at l obtained from an " approved egg supply farm," or imported (with the sent of the Minister) for hatching. Holders of licences and owners of approved supply farms are required to keep certain prescribed records, and inspectors e extensive powers of entry on and inspection of premises.

Finance.—The Finance Act (No. 15) continued income tax and surtax at the ting rates, but made certain increases in personal allowances. The rates of y on tobacco and entertainment duty are increased and the Stamp duties

chargeable on conveyances or transfers of stocks or marketable securities ar doubled on and after the first day of August, 1947. The Finance (No. 2) Ac (No. 33) increased Income Tax as from April 5, 1948, to seven shillings in the £ and increased the customs duties on wines, spirits and tobacco and entertainmen duty, customs and excise duties on beer, and the tax on mechanically propelle vehicles. S. 13 contains very important alterations in the Stamp Duties payab on the conveyance and transfer of lands in the case of conveyances to Iris citizens or corporations or persons resident in the State for three years prio to October 15, 1947, the rate of duty is increased to five per cent *ad valore* and in all other cases to twenty-five per cent. The increases do not apply t conveyances under the Housing of the Working Classes and other similar Acts, nc (in the case of the five per cent duty) to cases where the consideration is und £500, nor do they apply to voluntary conveyances to a lineal descendan brother, sister or lineal descendant of a brother or sister.

Health.—The Health Act (No. 28) is an important addition to the Publ Health Code. Part II deals with the provision and maintenance by Corporatio and County Councils of hospitals, sanatoriums, *etc.*, and provides that charg may be made for institutional services according to the means of the patient ar such charges are recoverable, not only from the patient or his personal represent tive, but also from any other person who is liable to maintain such patient und the Public Assistance Act, 1939, or the personal representative of such oth person. Elaborate new provisions are contained in the Act for the prevention the spreading of infectious diseases. For instance the selling or letting of a dwellin in which an infected person has been residing during the previous three mont is made an offence, unless the prescribed notice is given to the District Medic Officer. Health authorities may provide accommodation and other amenities fi persons compelled to leave their homes owing to infection, and may provide fi the training and education of persons suffering or recovering from an infectio disease, for employment suitable to their condition of health. The Minister given wide powers of regulating the sale of food intended for human consumptio of prescribing standards for food and drink, and of controlling the advertiseme and sale of medical and toilet preparations and other articles. A National Heal Council is to be established to advise the Minister in matters affecting or incident to the health of the people.

Shipping.—The Merchant Shipping Act (No. 46) was passed mainly for th purpose of enacting in permanent form certain provisions relating to ships whi had been made under the Emergency Powers Acts. For instance the Nation Flag must be hoisted on an Irish ship on entering or leaving a port outside th State and, in the case of a ship of fifty tons gross or upwards, on entering leaving a port in the State. The Act also contains restrictions on the transfer mortgage of Irish ships, without the approval of the Minister for Industry an Commerce, unless same is declared by the Minister to be an "excepte transaction."

II. NORTH AMERICA.

1. DOMINION OF CANADA.

[*Contributed by* Dr. Maurice Ollivier, K.C., *Law Clerk, House of Commo Ottawa.*]

The Third Session of the Twentieth Parliament began on January 30, 194 and closed by Prorogation on July 17, 1947. Of the 443 Acts passed a comprised in the Statutes of 1947, 78 were public acts and the remainder w private acts. Seventeen of the private acts related to railway, insurance or oth companies and 348 were divorce Acts. The divorce Acts, for the first time not included in the main volume of Statutes but are printed separately

Volume II. The public legislation continues to reflect the transition from war to peace and to meet post-war problems.

Agriculture.—The Agricultural Products Act (c. 10) was passed for the purpose of enabling the Government of Canada to fulfil its obligations under agreements entered into for the sale and export of food supplies to distressed countries in order to maintain economic stability and to ensure an orderly transition from war to peace. The Act provides for the establishment of commodity boards to undertake the purchase and disposition of agricultural products.

C. 3 incorporates in the Canada Grain Act the provision of four Orders in Council governing the omission or deferment of annual weigh-overs in terminal and eastern elevators, compulsory insurance of grain in eastern elevators and the transfer of a right to load a railway car ordered through the car order book with a change in the ownership of the grain on or after delivery to a country elevator. The Act also provides statutory grades under the main Act for certain oil seeds.

C. 15, an *Act to Amend the Canadian Wheat Board Act,* 1935:—(*a*) makes provision for meeting the requirements of the contract with the U.K.; (*b*) makes necessary changes in provisions fixing the price to be paid by the Board to producers of wheat; (*c*) establishes a pool period of five years; (*d*) generally makes provision for deficiencies in the present Act, and (*e*) confers capacity on the Board that it may deal in grain other than wheat.

The Prairie Farm Assistance Act, 1939, was amended by c. 43 to extend and clarify its provisions and to revise the schedule of payment so as to include the special rate of award formerly provided for under the crops failure sections of the Act.

Civil Service.—C. 53 amends the Civil Service Act by adding definitions with a view to providing a basis upon which persons may be deemed " veterans " for the purpose of the " Veterans' Preferences " in the matter of appointment to the Civil Service. The Act also extends the advantages granted to veterans of World War II.

The Act to Amend the Civil Service Superannuation Act, (c. 54) permits term employees and also members of certain boards, commissions and corporations to become contributors under the Act. It also provides for the granting of an annuity at the age of sixty instead of sixty-five, for deferred annuities if so desired, for the minimum return of contributions without interest and for other variations in different cases of retirement. The Act amends also the provisions relating to widows' and children's allowances and pensions. A new Part is added to the Act providing for a Retirement Fund for Temporary Employees.

The Diplomatic Service (Special) Superannuation Act, (c. 56) provides superannuation benefits for senior appointees of the Department of External Affairs serving outside Canada.

Coal Board.—The Dominion Coal Board Act (c. 57) provides for the setting up of the Dominion Coal Board which is given advisory and administrative functions. The Board undertakes researches and investigations with respect to coal, administers any subventions or subsidies relating to coal voted by Parliament. The Act provides that the regular officers, clerks and employees of the Board are to be civil servants.

Compensation.—The Government Employees Compensation Act, 1947 (c. 18) was passed for the purpose of revising the Government Employees Compensation Act, c. 30 of the Revised Statutes of Canada, 1927 and to continue in statutory form the provisions of certain Orders in Council made under the War Measures Act extending the application of the original Act.

Criminal Code.—The Code is amended (c. 55) in its provisions dealing with bawdy-houses so as to facilitate convictions and increase penalties. The amendments deal also with crimes resulting from the operation of motor vehicles, with the making of untrue statements to procure a passport. A new Part XA is added

making provisions for preventive detention of habitual criminals. The amendments further will permit appeals to the Court of Appeal from convictions involving questions of law, replace the former sections which set out the costs and fees that may be taken by justices, clerks, constables, witnesses and interpreters in summary conviction matters which had become obsolete. A new section provides that when a term of imprisonment is imposed with respect to non-payment of a fine, the term may be reduced proportionately in consideration of payment of any part of the fine.

Forest Conservation.—The purpose of the Eastern Rocky Mountain Forest Conservation Act (c. 59) is to approve an agreement made between the Dominion and the Province of Alberta respecting the protection and conservation of the forests of the east slope of the Rocky Mountains forming the water shed of the Saskatchewan river, and to create a statutory board to carry out the provisions of the agreement.

Housing.—The Act to amend the National Housing Act, 1944 (c. 40) simplifies the procedure for the making of loans, provides that a joint loan may be made to a person who builds a duplex and intends to occupy one of the family housing units in it, makes joint loans repayable on a period of thirty years and allows for a loan amounting to 95% of the first $3,000 of the lending value of the house, 85% of the next $3,000, and 70% of the balance of the lending value. This is an increase all along the line. The amending Act also empowers life insurance, trust and loan companies to acquire land, improve it and sell it for residential purposes.

Immigration.—An Act was passed (c. 19) "to amend the Immigration Act and to repeal the Chinese Immigration Act." The Act provides authority for the detention, guarding and bonding at the ports of entry and exit and while in transit, of parties travelling through Canada to some other country. It also provides for the admission to Canada of the dependents of the members of the Canadian Armed Forces who have served overseas, without being subject to the provisions of the Immigration Act. Finally the Act repeals the Chinese Immigration Act.

Insurance.—The purpose of the Act to amend the Canadian and British Insurance Companies Act, 1932, and the Foreign Insurance Companies Act, 1932, (c. 27) is to allow the companies registered under those Acts to invest their funds in the bonds, debentures and other securities issued or guaranteed by the International Bank for Reconstruction and Development.

Interpretation of Statutes.—The Act to amend the Interpretation Act (c. 64) deletes those provisions in the Act whereby the Clerk of the Parliament was instructed to endorse on certain Acts the date of reservation for the signification of His Majesty's pleasure as Bills are no longer reserved. The amendments also deal with the date of coming into operation of Acts, state that marginal notes and headings are no part of an Act, define a number of words, state that citations of Acts include amendments and finally deal with references to other Acts, parts of Acts, subsections and regulations.

Maritime Commission.—The Canadian Maritime Commission Act (c. 52) sets up the Canadian Maritime Commission, having advisory and administrative functions. The Commission makes recommendations as to policies and actions, examines into, ascertains and keeps records of shipping matters and performs certain duties under the Canada Shipping Act, 1934 as the Minister of Transport may require.

National Defence.—The Act to amend the National Defence Act (c. 5) provides for the appointment of not more than three persons to be Associate Deputy Ministers of National Defence to rank as deputy heads of a department. The Act also provides for the establishment of a Defence Research Board charged with the duties of conducting or co-ordinating all research and development for defence and advising the Minister in connection therewith. It is

ıticipated that certain defence research and development work will be carried ıt by universities and other scientific bodies.

The purpose of *The Visiting Forces (United States of America) Act* (c. 47) to make provision for the discipline and internal administration of visiting rces from the United States of America when present in Canada with the ɔnsent of the Government of Canada.

The purpose of *An Act to amend the Militia Act* (c. 21) is to so amend the ilitia Act as to enable the present plans for the re-organisation and training the Canadian Army to be effectively carried out and to remove certain ıachronisms from the Act.

The purpose of *The Trading with the Enemy Act (Transitional Powers) Act* . 24) is to provide for the continuance in force of certain of the Regulations specting Trading with the Enemy following the time fixed for the expiry of ıe National Emergency Transitional Powers Act, 1945, more especially for aling with enemy property subject to the control of the Custodian.

Natural Resources.—The Western Provinces Treasury Bills and Natural esources Settlement Act (c. 77) is as stated in its long title " An Act respecting e Refunding and Adjustment of Indebtedness of the Four Western Provinces the Government of Canada in respect of certain outstanding Loans for Relief d other purposes and Final Settlement of the Claims of the Provinces of berta and Saskatchewan in respect of Natural Resources."

Old Age Pensions.—C.67 is an amending Act to increase the amount which e Government of Canada will contribute to pensions and gives the provinces e right to fix any amount of pensions and outside allowable income it wishes thin the limit of ss. 8 and 8A of the Act.

Patents.—The Patent Act Amendment Act, 1947 (c. 23) was passed mainly r the purpose of providing for retention of essential control over designated ıds of patents and in substitution for relevant sections of Defence of Canada ɛgulations. An amendment also ensures co-operation on the part of the ɔmmissioner of Patents with the Atomic Energy Control Board. There are ite a number of amendments simplifying procedure and generally bringing e Act up to date.

Penitentiaries.—The Penitentiary Act, 1939, is amended by c. 41 so as to ɔstitute " the Commissioner of Penitentiaries " for the previous commission ınsisting of three commissioners which had been created in 1939 and never ınctioned as such.

Postal Service.—The Mail Contracts Supplemental Payments Act (c. 8) ntinues the payment of supplemental amounts, originally granted under thority of the War Measures Act, to mail contractors for the duration of their ntracts.

Railways.—The Railway Act is amended by c. 70 so as to grant the sum $200,000 annually for ten years to aid actual construction work for the ɔtection of the public in respect of highway crossings. This appropriation had ɛn discontinued in 1939.

Parliamentary Representation.—The Representation Act, 1947 (c. 71), states ıt the results of the census of 1941 necessitate a readjustment of the representa- n in the House of Commons, pursuant to the provisions of The British North nerica Acts, 1867 to 1946, and increases the representation in the House from 5 to 255. Quebec which previously had a fixed number of 65 will now have total of seventy-three members. The province of Ontario is given one more mber, 83 in lieu of 82. Nova Scotia will have one more member, that is 13 place of 12. Manitoba will have one less, 16 in lieu of 17, British Columbia nore, that is 18 in lieu of 16. Saskatchewan loses one member, 20 in lieu 21; the other provinces remain unchanged. This is all in proportion to the pulation except Prince Edward Island, which retains its four members.

Royal Style and Titles.—In accordance with the recital set forth in th preamble to the Statute of Westminster, 1931, The Royal Style and Titles A (Canada), 1947 (c. 72), was passed to provide the assent of the Parliament Canada to the omission from the Royal Style and Titles of the words "*Ind Imperator*" and the words "Emperor of India."

Trade and Commerce.—The Export and Import Permits Act (c. 17) provid that the Governor in Council may establish and publish lists of goods whic can be exported or imported only under the authority and in accordance wi permits issued by the Minister. The Act is of a temporary nature as it expir sixty days from the commencement of the session of 1948.

Transitional Powers.—The Continuation of Transitional Measures Act, 19 (c. 16) continues in force for a limited period of time certain Orders ar Regulations of the Governor in Council made under the War Measures Act a The National Emergency Transitional Powers Act, 1945, notwithstanding t expiry of the latter act, in order to ensure an orderly transition from war to peac

Trust Companies.—The purposes of the Act to amend the Trust Compani Act (c. 75) is to make the principal Act apply to all trust companies regardle of the date of incorporation, to increase the maximum number of directors fr 21 to 30 and to make certain other changes with regard to the administrati of companies more specially respecting transfer of stock and investment of func

United Nations.—The Privileges and Immunities (United Nations) Act (c. 6 grants to the Organisation and other public international organisations, th officials and the representatives of their Members the legal capacity, immuniti facilities and privileges necessary for the accomplishment of the purposes of t United Nations and for the independent exercise by representatives of Memb of their functions in connection with the Organisation.

United Nations.—C. 46 empowers the Governor in Council to make necessa orders and regulations for giving effect to the decisions of the Security Coun of the United Nations adopted in pursuance to Article Forty-one of the Chart

Veterans: The Army Benevolent Fund Act, 1947.—This Act as its lo title implies is an Act to establish a Benevolent Fund from Army Canteen a other Service funds for Veterans of World War II. This is done by setting in the Consolidated Revenue Fund a special account called the Army Benevol Fund to which are credited the accounts known as the Central Trust Fund of Army, Navy and Air Force Canteens and The Canadian Army Benefit Fu as well as other moneys enumerated in the Act. From the Fund thus crea such amounts are to be paid to or for the benefit of veterans or their depende as the Army Benevolent Fund Board may from time to time determine.

The Veterans Business and Professional Loans Act of 1946 is amended (*a*) enable a guaranteed loan to be made to a veteran who is already established a partnership business for expenditure by the partnership; (*b*) to enable a vete to include as part or all of his cash requirements under the Act, moneys expen by him in connection with his business between the date of assent to the I and the date of proclamation of the Act; (*c*) to extend the provisions regard security; and finally (*d*) to correct certain clerical errors.

2. ALBERTA.[1]

SEVENTY-THREE Acts were enacted at the Fourth Session of the Tenth Legislatu

Taxation.—C. 2 authorises the Lieutenant Governor in Council to negoti and execute a tax agreement of five years with the Government of Canada. T Province will suspend, for the term of the agreement, the imposition of succes duties, personal income taxes and corporation taxes except under The Corporat Income Tax Act which was enacted as c. 3 of 1947 and which imposes a five

1. Based on a synopsis prepared by W. S. Gray, Esq., K.C.

nt tax on that portion of the income of corporations derived from operations Alberta. This tax will be collected on behalf of the Province by officers of e Government of Canada.

S. 3, subsection (2), sets out the guaranteed minimum annual amount payable the Province.

Corporation Income Tax.—C. 3 has been passed as part of the arrangements ing negotiated between the Governments of Canada and Alberta with respect the suspension of the levying of certain taxes by the Province, and was enacted the request of the Dominion Government. Similar Acts have been or will be troduced in the Legislatures of all the Provinces which have completed or pect to complete tax agreements with the Dominion.

Rocky Mountains.—The purpose of C. 4 is to authorise the Minister of Lands id Mines, with the approval of the Lieutenant Governor in Council, to execute agreement with the Dominion Government providing joint action between the ovince and Dominion for the conservation of the forest on the east slope of e Rocky Mountains and for the protection of the watersheds. As this project of importance to Saskatchewan and Manitoba as well as Alberta, the Dominion overnment proposes to undertake the capital expenditure and part of the cost maintenance, the Province undertaking part of the cost of maintenance and e protection. The work is to be done by the Province under the supervision a Board.

Natural Resources.—C. 5 authorises the Lieutenant Governor in Council to cept the recommendation of the Royal Commission appointed to determine iat, if any, consideration should be paid to Alberta over and above the amounts ovided for in the Natural Resources Transfer Agreement.

Public Service.—C. 6 amends and consolidates the Public Service Act being 31 of the Revised Statutes of Alberta, 1942, and The Public Service Efficiency t, being c. 32 of the Revised Statutes of Alberta, 1942. The Act sets up a Civil rvice Commission of three members and creates a new office of Director of rsonnel in S. 10 with authority for the appointment of clerks and other sistants and s. 11 sets out the duties of the said Director.

S. 12 provides for the setting up of a three-member Civil Service Commission be appointed by the Lieutenant Governor in Council, the Chairman and one ner member to be nominated by the Executive Council and the other member be nominated by the Provincial Executive of the Civil Service Association of berta.

S. 15 of the Act deals with appointments to positions in Division 2 of the ublic Service. Subsection (2) provides that when a vacancy occurs the Director Personnel shall submit to the Deputy Minister of the Department concerned a t of persons in the order of their ranking, eligible and qualified for the class position which is vacant, which is to be considered by the Deputy Minister in porting to the Minister the applicant who, in his opinion, is best suited to the sition. Subsection (3) of s. 15 provides that when a temporary employee has rved a year, whether in one or more periods, he shall automatically become a rmanent employee unless before the year is up, the Minister makes a recommendation based on the written report of the Deputy Minister that the employment not made permanent.

S. 17 deals with promotions which shall be for merit and made by the eutenant Governor in Council upon the recommendation of the Minister based a written report of the Deputy Minister. It is provided in subsection (3) at, other things being equal, the persons with the greatest length of service shall given preference for the promotion.

Public Service Pensions.—C. 7 repeals The Superannuation Act and enacts w provisions relating to pensions for employees of the Government.

S. 5 provides that employees shall contribute five per cent of their salary the Pension Fund. The contribution under the former Act was four per cent.

Contributions are limited to a period of thirty-five years and cannot be mad by persons becoming employees hereafter who are fifty years of age. Interest i at three per cent or such other rate as may be fixed on the contributions of both the Government and the employee. Under the old Act the rate was five per cent

S. 7 of the Act sets out what pensionable service shall include and it is provided generally that no service prior to an employee reaching the age of thirty year or after reaching sixty-five years shall be deemed to be pensionable servic except that service in the armed forces during the second world war shall b deemed pensionable service if the employee contributes to the superannuation or the Pension Fund an amount equal to the Government's contribution unde The Civil Servants' War Service Act. If he has not contributed, one-half of th time of his service will count.

S. 9 sets out how the amount of the pension is to be ascertained, namely, a annual amount equal to two per cent of the average annual salary during th last five years of service multiplied by the total number of years of his pensionabl service, not exceeding thirty-five years.

S. 14 provides that where an employee dies while an employee, his beneficiary shall, in addition to receiving the amount to the employee's credit in the pensio fund with interest, receive also the sum of fifteen hundred dollars and, if th beneficiary is the widow, a further sum equal to the amount by which th employee's account in the fund exceeds fifteen hundred dollars.

S. 23 provides for adjustment of accounts of employees of the Governmen who may be transferred to or from the Government service to the Alberta Govern ment Telephones or other body having its own pension fund and *vice versa*.

S. 26 refers to certain employees who, during the war, were transferred c " lent " to the Dominion Government.

Labour.—C. 3 amends and consolidates the following Acts:—The Hours c Work Act, c. 279, R.S.A., 1942; The Female Minimum Wage Act, c. 28 R.S.A., 1942; The Male Minimum Wage Act, c. 282, R.S.A., 1942; The Labou Welfare Act, c. 5, Statutes of Alberta, 1942; The Industrial Standards Act, c. 31 R.S.A., 1942; The Industrial Conciliation and Arbitration Act, c. 28 R.S.A., 1942.

The Act applies to all employees except persons who are farm labourers c domestic servants in private houses.

S. 11 provides that the working hours shall not exceed forty-eight in th " week of not more than six working days." In The Hours of Work Act formerl in force this reads " week of six working days." The change is intended t meet cases where there is a five-day week.

In s. 25 the words " unless the agreement is approved by the Board " a new. This gives the Board authority in a proper case to permit an agreement a a lower wage than the minimum.

S. 43 deals with holidays with pay and is considerably enlarged from th corresponding provision contained in s. 4 (2) (*g*) of the Labour Welfare Ac Clause (ii) or paragraph (*d*) authorises the Board in specified industries to requi an employer to set aside at the end of each pay period an amount set out in th order as holiday credits which may be in cash or stamps if such a system adopted which shall be available to the employee as provided in the order.

S. 59 deals with the procedure leading up to the certification of a bargainin agent and modifies to a considerable extent the provisions formally in the Ac Subsection (4) defines the times when a bargaining agent, claiming to have bee selected as such, may make an application to the Board to be certifie which are:—

(*a*) at any time, if there is no collective agreement in force and n bargaining agent has even been certified;

(*b*) where there is no collective agreement but a bargaining agent ha been certified, after expiry of ten months from such certification;

(*c*) where a collective agreement is in force after the expiry of ten months of the term of the agreement.

When the application is made the Board makes an inquiry and report upon he matters set out in paragraphs (*a*), (*b*) and (*c*) of subsection (5). Subsection 7) sets out the powers of the Board in determining the merits of the application ncluding where expedient, the taking and supervision of a vote by ballot. The ote may be taken on the premises of the employer who is required to place a uitable portion of the premises at the disposal of the Board for that purpose. ubsection (8) provides for the taking of the vote during different shifts, if the mployees work in shifts. Subsection (9) provides for the Minister certifying the pplicant as bargaining agent if the Board reports to him that it is satisfied of the natters set out in paragraphs (*a*), (*b*) and (*c*) of the subsection.

S. 61 of the Act provides by subsection (2) that every collective agreement hall contain a provision for final settlement without stoppage of work of all ifferences between the parties regarding its interpretation, application, operation r any alleged violation, while subsection (3) provides that where any agreement eretofore or hereafter entered into does not contain such a provision, either party o the agreement may apply to the Board to prescribe such a provision.

S. 63 prohibits an employer or employers' organisation from interfering with he formation, *etc.*, of a trade union or to contribute financial support to it eyond permitting an employee or trade union representative to confer with him uring working hours, *etc.*, without deduction of wages for the time occupied.

S. 65 is new and prohibits an employer from interfering with an employee in he exercise of any right conferred under Part V of the Act dealing with onciliation, *etc.*

S. 66 is new and prohibits an employee or person acting for a trade union rom using intimidation with a view to encouraging or discouraging membership r activity in a trade union.

S. 88 gives the Lieutenant Governor in Council authority to suspend the peration of Part V of the Act dealing with industrial disputes in so far as it refers o disputes in the coal mining industry and to authorise the application thereto f the Dominion Act relating to such matters.

Mineral Taxation.—C. 10 amends and consolidates the Mineral Taxation Act, 945, and is for the most part in similar terms to that Act.

S. 3 requires every owner, without notice or demand between the first day f January and the first day of February, 1948, and each person who becomes n owner after the thirty-first day of January within thirty days of that date to eliver to the Deputy Minister a written statement setting out the legal description f all tracts with respect to which he is the owner of minerals, and the kind or inds of minerals and what minerals are being produced or have been produced.

S. 4 provides for the payment before the thirty-first day of December in each ear of a general tax on all minerals as fixed by the Lieutenant Governor in ouncil but not exceeding five cents per acre.

S. 7 deals with the designation by the Minister of areas in the Province as roducing areas and with the designation also of the principal mineral or minerals n a producing area.

S. 8 authorises the assessment of a tax on the principal mineral or minerals nd only on such minerals in a producing area.

S. 9 (2) provides that the assessment shall be made before the first day of une in each year. S. 9 (4) authorises the Minister to allocate to a producing ell any specified area for the purpose of computing the value of the minerals the manner prescribed in the Schedule. A new method of ascertaining the ir actual value of the minerals for the purpose of assessment is set out in the chedule.

S. 1 of the Schedule deals with petroleum and fixes the value at one and

one-half times the value of the average field price during the first three months of the year in which the assessment is made of all petroleum produced from the well during the preceding year.

S. 2. of the Schedule has similar provision as to gas, fixing the value at four times the value at three cents per thousand cubic feet of the natural gas produced from the well during the preceding year.

Coal is dealt with in s. 3 of the Schedule and is valued at an amount equal to three times the value at ten cents per ton of all coal recovered from the tract in the preceding year. Provision is made, in the case of coal, for a reduction in the assessment under certain conditions.

Automobile Accident Indemnity.—C. 11 is a new Act, the main feature of which is the provision for an unsatisfied judgment fund established by s. 7.

S. 4 provides that in all cases of accident in which a motor vehicle is involved, and in which personal injury or death or property damage exceeding twenty-five dollars results, the Minister shall suspend the licence of the driver, that is his driver's licence or chauffeur's licence, as the case may be, except where the only damage resulting from the accident is to the person or property of the driver or where the driver produces proof of financial responsibility. The licence, if suspended, remains suspended, subject to the above exceptions, until the driver or chauffeur complies with one of the conditions set out in subsections (4) of s. 4, that is by giving security, proof of financial responsibility, *etc*. Subsection (5) provides for cases where after the lapse of a year no claim has been asserted against the driver.

The unsatisfied judgment fund established by s. 7 is raised by an addition to the fee for registration of a motor vehicle of a sum to be fixed by the Lieutenant Governor in Council not exceeding one dollar. Any person who has recovered judgment for damages in excess of one hundred dollars resulting from bodily injury caused by the operation or use of a motor vehicle, and is unable to collect it from the defendant, may apply to a judge of the Supreme Court for payment out of the fund. The procedure and necessary material are set out in s. 8. The maximum amount payable out of the fund is five thousand dollars for injury to or death of one person and ten thousand dollars for two or more persons injured in one accident.

S. 9 provides a procedure for cases where a person is injured or killed by a " hit and run " driver where the name of the driver is not ascertainable.

S. 12 provides that where money has been paid out of the fund in payment of or on account of a judgment against a driver or chauffeur his licence will not be reinstated until he has repaid to the fund that amount and given proof of financial responsibility.

S. 13 provides for the payment out of the fund of hospital expenses to persons injured in motor vehicle accidents unless they are covered by insurance which provides for payment of such hospital expenses. This does not apply where the person was solely to blame himself for the accident.

Testators Family Maintenance.—The purpose of c. 12 is to replace and extend the provisions of The Widows' Relief Act, c. 304, R.S.A., 1942. The benefits conferred by that Act were limited to widows. Many cases of hardship arise where wills are made with no provision for children, often children who may be helpless, mentally or physically; also where a wife disinherits her husband. This Act extends the right to apply to the Court for relief to any dependant of a testator for whom adequate provision for proper maintenance and support has not been made in the will. Dependant is defined as meaning the wife or husband of the testator, a child of the testator who at the time of the testator's death is under the age of nineteen years, and a child over that age who by reason of mental or physical disability is unable to a earn a livelihood.

S. 3 of the Act protects a person and his or her children, who has gone through a form of marriage in the belief that a former spouse of the other party to the

arriage is dead, the Court having made a declaration of presumption of death. uch a person or the children would be entitled to apply to the Court for relief nder the Act.

S. 4 is the section giving a Supreme Court Judge jurisdiction to hear an pplication or applications on behalf of any of the dependants of a testator and o order, in his discretion, such provision as he deems adequate out of the estate f the testator for proper maintenance and support for any of the dependants. ubsection (2) and (3) indicate what evidence the Judge may consider in arriving t a decision.

Maintenance Orders Enforcement (C. 13).—In 1920 there was passed by the arliament of the United Kingdom The Maintenance Orders (Facilities for nforcement) Act which provided for enforcement in England and Ireland (now mited to Northern Ireland) of Maintenance Orders made in any part of His Iajesty's Dominions outside the United Kingdom to which the Act extended; ie Act extends to all such parts where reciprocal arrangements have been made y the Legislature. Reciprocal legislation has been in force for some time in the ommonwealth of Australia, the Australian States, New Zealand, the Union South Africa and Southern Rhodesia. The Commissioners on the Uniformity f Legislation adopted an Act in the form of this Act at its 1945 session and it as already been passed by the Legislatures of Manitoba, Saskatchewan and ritish Columbia.

The Act is entirely procedural and its effect is to make maintenance orders sued in England or Northern Ireland against residents of Alberta enforceable Alberta, and on the other hand to make maintenance orders issued in Alberta gainst residents of England and Northern Ireland enforceable in those portions the United Kingdom.

" Maintenance order " is defined as being an order, other than an order of filiation, for the periodical payment of sums of money toward the maintenance the wife or other dependants of the person against whom the order is made.

It is important to note that an order made in England or Northern Ireland nnot be enforced in Alberta except through an Alberta Court before which ie defendant may appear and contest the validity of the order. Similar provi- ons apply to orders made in Alberta against residents of England or Northern eland.

S. 6 sets out the procedure to be adopted in Alberta to enforce an order made England or Northern Ireland against a resident of Alberta, which order is of effect until confirmed by a Court in Alberta. By subsection (2) the defendant given every opportunity to raise any defence he might have raised in the iginal proceeding. By subsection (4) he may ask the case to be remitted for rther evidence to the Court which made the order. Subsection (6) provides at an appeal may be taken from the confirmation of the order.

Defamation.—C. 14 has been adopted by the Conference of Commissioners Uniformity of Legislation and has already been enacted by the Legislature Manitoba. The most important feature of the Act is that it makes the law as libel and slander uniform and makes slander actionable in the same cumstances as libel.

At common law there is a marked difference in the right to bring a successful tion for damages for libel and slander respectively. Thus a libel being a false famatory statement expressed or conveyed by written or printed words or in ne permanent form is actionable without proof of special damage, while nder, with certain exceptions, is not actionable without proof of special mage. Most of the provisions of this Act are the same or substantially the ne as those contained in the Libel and Slander Act which is repealed by s. 20 this Act. There are new provisions dealing with radio broadcasting.

S. 3 places libel and slander, which together constitute defamation (s. 2 (b))

in the same category and make both actionable without proof of damage, which is presumed.

S. 10 which was in the former Act and protects newspapers publishing a fair and accurate report of public meetings, proceedings in legislatures, and in various public bodies, unless malice is proved, is extended to similar reports made by broadcasting.

S. 11 deals with reports of public court proceedings and is substantially the same as the section formerly in force except that it also extends to broadcasting reports. This section makes absolutely privileged such reports if they contain no comment and if certain other conditions set out in subsection (1) are complied with. Subsection (2) is new and takes the above privilege away from a newspaper and a broadcasting station, *etc.*, which fail to comply with a request for publication of a reasonable letter or statement of explanation or contradiction in the case of a newspaper or to broadcast a similar explanation or contradiction on two occasions on different days in the case of a broadcasting station.

S. 13 provides that no action will lie against a newspaper or broadcasting station unless within three months after the publication of the defamatory matter has come to the notice of the plaintiff, he gives notice of his intention to bring an action. This limit of three months is changed from six weeks as it was in the section formerly in force.

S. 16 providing for an apology in mitigation of damages is extended by paragraph (*b*) to broadcasting stations. Subsection (2) of this section is new and allows a defendant to prove in mitigation of damages that the plaintiff has already brought action in respect of defamation of the same purport or effect.

S. 18 in subsection (3) has special provisions requiring a broadcasting station to disclose the name and address of the owner and operator of the station, with the penalty for non-disclosure that the defendant will not be entitled to the benefit of ss. 13, 14 and 17.

Real Estate Agents' Licensing.—C. 15 repeals two Acts, namely, the Real Estate Agents' Licensing Act, c. 318, Revised Statutes of Alberta, 1942, and the Real Estate Commission Act, c. 319, Revised Statutes of Alberta, 1942. The last-mentioned Act is incorporated in the new Act together with many of the provisions of the former Act and a number of new provisions.

An important change made by the Act is that its provisions extend to the sale of a business, including stock in trade, *etc.*, though no real estate may be involved in the transaction. The definition of " real estate " in s. 2 (*h*) effects this.

S. 4 (2) provides that if a salesman terminates his employment with a licensed agent the salesman's licence is automatically suspended until reinstated by the Superintendent.

Communal Property.—The purpose of c. 16 is to prohibit the extension of existing colonies of persons holding land as communal property as defined in S. 2, such as the Hutterites, beyond their holdings on March 1, 1944, the day upon which the Land Sales Prohibition Act came into force.

By s. 4 each colony is required to forward to the Minister within one month a statement showing the holdings as of that date and any changes since.

S. 5 prohibits the extension of the colonies now established but provision is made for the substitution of land for any land of a colony taken for irrigation or other public purposes, and for the purchase of land held under lease on March 1, 1944, and still so held.

S. 6 prohibits the establishment of a new colony or branch within forty miles of the lands of an existing colony and provides that sixty-four hundred acres shall be the maximum holdings of such a colony.

S. 8 provides that before land is sold to a colony it must be first offered for sale under the Veterans' Land Act, 1942.

Blind Persons White Canes.—C. 17 is a new Act, the purpose of which is to prevent persons other than " blind persons " as defined in the Act from using

public places " white canes " as defined in the Act. S. 4 imposes a penalty r violation of the Act.

Nursing Aides.—The purpose of c. 18 is to provide for the training and censing of nursing aides.

A nursing aide is defined as a person who, being neither a registered nurse or a person in training to be a registered nurse at an approved school of ursing, undertakes the care of patients for remuneration.

An Advisory Council is provided for in s. 4 consisting of two officers of the epartment of Public Health, the Medical Inspector of Hospitals and the Superinndent of the Public Health Nursing Branch, and four representatives appointed y the organisations specified in the section.

S. 9 deals with the establishment of schools of training, *etc.*, for nursing aides nd authorises the Minister of Health, with the approval of the Lieutenant overnor in Council, to make arrangements for establishment of one of more ntral schools and the appointment of teachers, *etc.*, also to arrange with hospitals r the training of nursing aides.

Agrologists.—C. 19 constitutes the Alberta Institute of Agrologists and creates a body corporate.

S. 19 enumerates the persons who are eligible for membership in the Institute. hese briefly are:—

(*a*) graduates of at least three years standing in agriculture and practising or qualified to practise agrology when this Act comes into force;

(*b*) graduates of three years standing of a faculty other than agriculture and possessing the necessary qualifications (s. 21);

(*c*) qualified members of a similar professional agricultural body; and

(*d*) any resident of Alberta who applies within twelve months after the coming into force of this Act and possesses the necessary qualifications (s. 21).

S. 29 deals with the discipline of members for breach of the Act or by-laws or e rules of professional ethics and outlines the procedure to be followed where complaint is made against a member, and provides in proper cases for reinstatement of members expelled or suspended.

S. 30 gives a member suspended or expelled a right of appeal to a judge of the preme Court.

University Foundations Act.—C. 21 creates a corporation distinct from the niversity. The Foundation is to be governed by trustees (s. 4) who shall be e President of the University, the Chairman of the Board of Governors and e President of the Alumni Association, together with such persons as may be pointed or elected as provided in the Act (s. 5).

No. 22 is a similar Act for Banff University.

Legislative Assembly.—The Courts have held that under the then existing gislation no portion of the sessional indemnity of a member of the Legislative ssembly is exempt from income tax though a large portion of it is used in ying expenses. Since these decisions were given the Dominion Income Tax t has been amended to provide for the exemption of that portion of the lemnity described as expenses, subject to certain limitations. The purpose of ragraph (*a*) of s. 1 of c. 26 is to divide the allowances of members into sessional lemnity and expenses so as to bring the members within the terms of the ominion Act.

Elections.—S. 1 of c. 27 amends the definition of "corrupt practices" so to exclude the acts set out in the section; namely, driving voters to the polls for candidate where no remuneration is paid, *etc.*

S. 6 of the Act prohibits the appointment as returning officer, poll clerk, *etc.*, persons who have been convicted of corrupt practices or of dereliction of duty violation of the Alberta Election Act. The amendment made by s. 2 of the

Act limits these convictions to convictions within the ten years preceding nomination day.

S. 17 of this Act amends s. 61 of the Act which deals with voting at advance polls:—

(*a*) by including invalids among those entitled to vote at an advance poll;

(*b*) by enabling a returning officer to establish advance polls at points in addition to those mentioned in Form 30 in the Act;

(*c*) by enabling a voter to apply for an advance poll voting certificate otherwise than " in person."

Bureau of Public Welfare.—C. 29 adds a Part II to the Public Welfare Act and the new ss. 29 and 30 authorise the Minister of Public Welfare to acquire, maintain and operate homes for persons who are aged or infirm and training schools for children who are wards of the Government.

Section 31 authorises the Minister to provide hopitalisation and treatment services (defined in s. 2 (*g*)) to old-age pensioners and blind pensioners and their dependants and similar services to women in receipt of mothers' allowance.

Amusements.—The amendments proposed by c. 32 provide for the licensing of carnivals or carnival shows as they are described in the Act.

Provincial Lands.—The amendment to s.15 of the Provincial Lands Act made by s. 1 of c. 35 provides that the percentage of the Department's share of the crop from agricultural leases which was formerly payable to school divisions shall now be payable directly to the municipal district or improvement district in which the land is situate. It also provides that in the case of an agricultural lease of cultivated lands where there is an increased rental on account of improvements the municipality receives a percentage of the one-eighth share of the crop which is the basic land rental.

The amendments made by s. 2 of this Act provide that the lessee does not have to commence residence during the winter months. In the case of an alien it also provides that he must become naturalised before finally acquiring the land.

Water Resources.—In the Water Resources Act " water " over the diversion *etc.*, of which the Minister has control is defined in s. 2 (*u*) as follows:—

" ' Water ' when used in relation to any property therein or to any right in respect thereof or to the diversion thereof, or to the usage thereof, means any water in any river, stream, water-course, lake, spring, ravine, canyon, lagoon, swamp, marsh or other body of water in the Province."

While this definition is quite wide, cases arise where doubt exists whether certain water, sometimes only seasonal, comes within a strict construction of that definition. The purpose of the amendment made by s. 1 of c. 36 is to give the Minister power to deal with such border-line cases by declaring certain water in a specified area to be " water " for the purposes of the Act.

Evidence.—The amendments proposed by c. 42 have been adopted by the Conference of Commissioners on Uniformity of Legislation.

S. 1 of the Act introduces a new s. 6*a* authorising a husband or wife to give evidence in legal proceedings, particularly in divorce actions that he or she did or did not have sexual intercourse with the other at any specified period. Such evidence has long been held by the courts to be incompetent, resulting often in injustices.

The immunity given by the Evidence Act was limited to the parties to an action instituted in consequence of adultery and their husbands and wives. The new s. 2 extends the immunity to all witnesses in any action whether parties or not.

S. 3 enacts a new s. 37 dealing with the admissibility in evidence of photostatic copies of records. The section formerly in force was enacted in 1941 and was in the form at that time adopted by the Uniformity Commission. It was limited in its application to banks, railways, express, telegraph and telephone

ompanies, insurance companies, trust companies and loan companies. The new ection since adopted by the Uniformity Commission applies to all corporations as well as government departments) where documents, *etc.*, are photographed n the course of an established practice in order to make a permanent record nereof, and the original is subsequently destroyed. In such cases a print from ne photographic film is admissible in evidence. The new section has an addi- onal safeguard by providing that where the document is destroyed within six ears after the date when it, or the matter to which it related, in the ordinary ourse of business ceased to be treated as current, or within six years after the erson having custody of the document receives notice in writing of a claim with espect to it, the Court may refuse to admit in evidence a print from the film. his last provision, however, does not apply to the Government of Canada or ny Province, or to boards, *etc.*, of any such Government or to the Bank of anada.

Jury.—The purpose of c. 46 is to make persons over twenty-one years of age ligible and liable to serve on a jury subject, of course, to the exemptions and isqualifications in the Act. Persons of over sixty years of age are declared to e qualified, but by the new section 3*a* may claim exemption from service. Under ne section formerly in force only persons over twenty-five years and under sixty ears of age were qualified and liable to serve as jurors.

Public Health.—The Public Health Act in ss. 25 and 26 provides for the tting up of " full-time health districts " which have become generally known s " full-time health units " or " health units." It is considered advisable to nange the language of the Act to comply with usage.

S. 1 of c. 56 inserts a definition of " full-time health units " to take the place the present definition of " full-time health district."

Insurance.—S. 4 of c. 59 adds a new subsection (3*a*) to s. 278 of the Act hat section which is in the Part of the Act dealing with automobile insurance eals with the rights which a person who has recovered judgment against an sured person has against the money payable under the insurance policy. In recent case in the Appeal Division of the Supreme Court of New Brunswick was held that where a policy was void as between the immediate parties by ason of misrepresentation, *etc.*, the person who had recovered a judgment gainst the insured lost his rights against the money otherwise payable under the olicy. The purpose of this amendment, which has been approved by the uperintendents of Insurance of the Provinces, is to override the above judgment nd enable the person recovering the judgment to have recourse to the insurance oney even if the policy is not a valid motor vehicle liability policy as between e immediate parties.

Vehicles and Highway Traffic.—S. 1 of c. 67 substitutes a new section, dealing ith right-of-way at intersections. Subsection (2) of the section formerly in rce provided that the driver of a vehicle approaching an intersection shall yield e right-of-way to a vehicle which has entered the intersection, while subsection) provided for the case where two vehicles enter upon an intersection at the me time and gives the right-of-way to the vehicle which entered the intersection om the right of the driver of the other vehicle. It is often difficult for drivers know which vehicle enters first, so the new subsection (1) provides instead r the case of two vehicles approaching or entering an intersection at pproximately the same time and provides that the vehicle on the left shall yield e right-of-way to the vehicle on the right. The proposed new subsection (2) als with the case of the driver of a vehicle approaching an intersection and ovides that he shall yield the right-of-way to a vehicle in the intersection and rning to the left across the line of travel of such driver, if the driver of the hicle turning left has given a plainly visible signal of his intention. The ovisions of the proposed new section have been in force for some time in skatchewan, Manitoba and Prince Edward Island.

S. 2 of this Act introduces a new subsection (3*a*) in s. 58 dealing with the statement required to be given to police after a motor accident. Subsections (2) and (3) of s. 58 provide that a person in charge of a motor vehicle, or, if he is incapacitated, another occupant of the car shall in the case of an accident resulting in personal injuries or property damage apparently exceeding twenty-five dollars, furnish to the nearest constable a written statement concerning the accident on forms provided by the Minister. These statements have been sometimes used in evidence against the person making them, and it is considered undesirable that this should continue to be the case as they are sometimes made when the person making them may not be in a fit state to realise the actual facts. The purpose of the new subsection (3*a*) is to make these statements privileged in the sense that they cannot be used against the persons making them in subsequent legal proceedings.

Legal Profession.—S. 1 of c. 70 introduces a new s. 62*a* which provides that a graduate in law of a university other than the University of Alberta may be admitted to the Alberta Bar after serving the required period under articles if he satisfies the Faculty Council of the Faculty of Law of the University of Alberta that the courses he has taken, pre-law and law courses, are at least equivalent to the courses required by the University of Alberta leading to a degree in law.

S. 2 of the Act adds a subsection to s. 69 authorising the Benchers of the Law Society to make certain expenditures from their funds not now, in terms, provided for, namely for memorial, education, benevolent or charitable purposes.

3. BRITISH COLUMBIA.

[*Contributed by* J. Pitcairn Hogg, Esq., K.C., *Legislative Counsel.*]

One Hundred and Three Acts were passed during the year.

Interpretation of Statutes.—An amending Act, c. 1, provides that where expressions such as " the conclusion of the war " are used in a British Columbia statute the date referred to is June 30, 1947.

Agrologists.—C. 3 establishes the profession of agrologists.

Annual Holidays.—C. 4 provides that moneys payable in lieu of a holiday are to be treated as wages for the purposes of the " Mechanics " Lien Act, and makes other minor amendments.

Apiaries.—The main purpose of the amendments made by c. 5 is to facilitate the control of disease in beehives.

Beef Cattle Producers' Assistance.—C. 6 makes provision that every person who ships cattle for slaughter outside the Province shall pay thirty cents per head into a fund maintained by the Department of Agriculture.

Bills of Sale Act.—C. 7 makes provision that a void Bill of Sale shall not be made valid as against certain persons by the taking of possession of the goods.

Canada-British Columbia Joint Development.—Provision is made by c. 11 for an agreement with the Dominion to carry out certain developments in the Province.

Municipal Cemeteries.—The City of Vancouver is brought by c. 12 within the scope of the provisions of the Municipal Cemeteries Act which authorise the closing of a cemetery and the removal of bodies therefrom.

Constitution.—C. 17 establishes a Ministry of Fisheries and provides that a Member's indemnity is divided into two parts, $1,000 for expenses and $2,000 as an allowance.

Dogwood Protection.—C. 24 provides protection for wild rhododendrons.

Elections.—An amending Act, No. 28, provides that Hindus and Chinese are eligible as voters but no one is eligible unless he has an adequate knowledge of the English or of the French Language. There is also provision that there shall

be a central register of all voters in the Province, and there are other amendments dealing with administrative matters.

Escheats.—An amending Act, c. 30, confers further powers on the Government in connection with the sale and disposal of property escheated to the Crown.

Evidence.—C. 31 provides that a husband or wife may give evidence that he or she did or did not have sexual intercourse with the other party to the marriage.

Fisheries.—C. 35 contains amendments required by the establishment of a Department of Fisheries under a Minister of Fisheries authorised by c. 36.

Foresters.—C. 37 establishes the profession of Forestry.

Fur Farms.—C. 39 requires every operator of a fur farm to be licensed and to comply with the provisions of the Act.

Highways.—C. 41 authorises the making of regulations for the control of traffic on highways in unorganised territory and prohibiting or regulating the erection of signs and buildings in close proximity to a highway in unorganised territory.

Horse Racing.—C. 42 makes provisions as to the times at which horse racing may be conducted on certain race tracks.

Industrial Conciliation and Arbitration.—A re-enactment of the "Industrial Conciliation and Arbitration Act" of 1937 is contained in c. 44. The principal change is that a strike is illegal unless it has been authorised by a vote of the employees in which a majority of those who vote is in favour of a strike.

Mining Lease.—A declaration that a mining lease is valid notwithstanding that the term thereof is uncertain is enacted by c. 51.

Liquor.—C. 53 abolishes liquor permits and makes other minor amendments including permission for the sale of beer by the glass in a club and a prohibition of a transfer of shares in a company licensed under statute.

Motor Vehicles.—Several minor amendments are contained in c. 62 and include one that where there is a violation of provisions relating to the use or presence of a motor vehicle on a highway the person licensed as the owner shall incur the penalties unless he proves that the violation was not committed by himself or by a person who had authority from him to have control of the motor vehicle. There are also very extensive amendments introducing approximately twenty-nine sections bringing into effect what is commonly known as the Manitoba system of establishing financial responsibility in relation to automobile accidents. One of these provisions includes the establishment of a fund by the collection of one dollar from every licensee. The fund can be resorted to by the holder of an unsatisfied judgment arising out of an automobile accident for the payment of that judgment.

Music Teachers.—C. 67 establishes an association of music teachers.

Petroleum and Natural Gas.—C. 70 is a new Act setting out the conditions on which rights to oil on Crown lands may be obtained.

Certified Seed Potatoes.—C. 72 authorises the Lieutenant-Governor in Council to establish areas within which there shall be regulations to prevent the spread of disease in potatoes.

Probate Fees.—C. 73 is a new Act restating the law as to probate fees.

Shops.—C. 80 authorises a municipal council to establish a whole holiday in each week in respect of certain classes of shops and makes other minor amendments.

University Lands.—C. 93 makes it illegal to pick wild flowers, etc., on University lands.

Venereal Diseases.—A restatement of the law relating to the suppression of venereal disease is contained in c. 95.

4. MANITOBA.

[*Contributed by* G. S. RUTHERFORD, ESQ., K.C., *Legislative Counsel.*]

THE following is a brief summary of the more important legislation enacted at the 1947 Session of the Manitoba Legislature.

Arbor Day.—C. 2 provides that while Arbor Day may be proclaimed annually as in the past, it will no longer be a public holiday.

Insurance.—S. 1 of c. 22 arose out of the decision of the Court of Appeal of New Brunswick in the case of *Bourgeois vs. Prudential,* 13 I.L.R. 1. The court held that by reason of the fact that the insured person had made a false statement at the time of the issue of the policy there was, therefore, no policy and the injured person could not recover under the section equivalent to s. 198 of the Manitoba Insurance Act. The amendment provides that it shall not be a defence to an action under s. 198 that an instrument issued as, and purporting to be, a motor vehicle liability policy is not in fact such a policy.

Real Property Act (C. 43).—This repeals certain sections of the Real Property Act relating to the old registration districts of Souris River and Manchester, both of which have now been abolished.

Registry Act (C. 43).—This is a parallel amendment to the amendment made to the Real Property Act at the 1946 Session and permits the address given on the registration of certain instruments to be an address anywhere and not necessarily an address in the province.

Mental Deficiency.—C. 29 authorises the provincial psychiatrist or the judicial authority, as the case may be, to release certain mental defectives who do not require institutional care.

Child Welfare.—In view of the criticism expressed by the court in the case of *Children's Aid Society vs. Brooklands* (1946) 3 W.W.R 593 respecting the wording of s. 14, this section has been entirely re-drafted and c. 4 now permits an application for guardianship to be made under Part III of the Act. Certain other sections of the Act are clarified and sub-section (1) of s. 75 is repealed and has been re-enacted in the Vital Statistics Act. S. 96 is also amended to bring it into conformity with s. 34 of the Vital Statistics Act as amended at the present Session whereby under the circumstances mentioned therein an adopted child can retain the surname under which his birth was registered.

Marriage.—Certain important amendments are made by c. 27 to the provisions requiring a medical examination before a marriage can be performed. Provision is made for the issue of the necessary certificate in the case of non-residents of Manitoba and also in the case of persons who have their usual residence in remote areas of the province. Amendments are made to clarify the provisions respecting marriages of persons under sixteen years of age and between sixteen years and eighteen years.

Vital Statistics.—C. 64 makes certain administrative changes and also provides a new procedure for the registration of a birth where the parents, or one of them, were or was married to other persons at the time of the birth but are subsequently divorced and are married to one another. Provision is also made for the case of a legitimate child, both of whose parents are dead, and who is adopted by a relative or friend and it is desired by all that the child, instead of taking the surname of the adoptive parents, retain its own proper surname. Provision is also made for the first time for the recording of decrees of divorce and nullity of marriage.

Daylight Saving.—The Lieutenant-Governor-in-Council is authorised by c. 23 to adopt daylight saving time in any government offices that are situated in municipalities where daylight saving time is adopted and in general use.

Department of Labour.—C. 24 provides for the establishment of The Manitoba Labour Board which will administer the provisions of certain labour legislation.

Child Welfare.—C. 5 makes provision for the establishment of family courts in the province.

White Canes.—C. 68 provides that no person other than a blind person shall carry or use a white cane on any highway or public thoroughfare or other public place.

Health Services.—A considerable number of administrative changes are made by C. 19. It authorises the making of regulations for the dissolution of local health units. It gives certain power to municipalities to acquire premises for lease to the board of local health units. Amendments are made to the procedure respecting the establishment of diagnostic units. The provisions respecting the establishment of hospital districts and medical nursing unit districts are completely revised. The provisions respecting the issue of debentures by hospital districts and medical nursing unit districts are also revised. Numerous other administrative changes are made.

Medical Practitioners.—The amendments enacted by c. 28 enlarge the categories of persons who may be registered as medical practitioners on payment of the fee and on production of documentary proof of qualification. The amendments also revise and enlarge the categories of qualified persons who may be licensed while resident in Manitoba.

Dominion-Provincial Agreement and Taxation Suspension.—C. 56 authorises the Government to enter into an agreement with the Government of Canada respecting the suspension of certain provincial taxes and respecting certain financial provisions whereby the Government of Canada makes grants to the province. It also provides for the suspension of The Succession Duty Act in so far as it is applicable to the cases of persons who die on or after the first day of April, 1947. The latter part of the Act provides for the establishment in the books of the province of a reserve to be known as the Deferred Revenue Reserve. Power is also given to the government to enter into an agreement with the Government of Canada whereby the latter will collect the tax imposed under the Manitoba Corporation Income Tax Act.

Vacations with Pay.—C. 62 makes provision for a compulsory vacation with pay of at least one week to be given to all employees to whom the Act applies.

Shops.—Part of c. 47 deals with gasoline service stations and authorises the municipality to which the provision applies to enact by-laws relating to the closing of such stations and providing for a system of closing in rotation, or for certain stations being open while others are closed. S. 8 of the Act as it now stands makes it obligatory on the council of a municipality to pass a by-law relating to the closing of shops of any class if 75% of the occupiers of such shops apply for the passing of such a by-law. The provisions of this section are applied to gasoline service stations. The Act also provides that in rural municipalities, towns and villages, a half-holiday each week which the council is now authorised to enforce need not be on a Thursday as heretofore, but may be on any day of the week. The amendment also provides that in rural municipalities a weekly half-holiday may be enforced in a part only of the municipality.

Study of Anatomy.—C. 3 repeals the present Anatomy Act and substitutes new provisions therefor. The Act relates to the disposal of unclaimed bodies of deceased persons.

Highway.—C. 20 contains certain provisions respecting school vans, of which the object is to insure in so far as possible the safety of children riding in such vans. Certain changes are made to clarify the provisions of the Financial Responsibility part of the Act enacted in 1945. Perhaps the most important provision of the Act is that which permits action to be brought against a nominal defendant in a case where a person is injured by a hit-and-run driver who disappears and also provides for the payment of any judgment obtained against such nominal defendant from the Unsatisfied Judgment Fund. The fees collected

under the Act by The Municipal and Public Utility Board which have heretofore been set forth by order-in-council are now enacted as part of the Act.

Plant Pests.—Certain additional plant diseases are included in the definition of the term "disease" by C. 35. The amendment also provides for the furnishing of certificates as to freedom from disease in the case of certain imported plants. Provision is also made that agents and salesmen of extra-provincial nurseries must be registered.

5. NEW BRUNSWICK.

[*It is hoped to publish the review in the next issue.*]

6. NOVA SCOTIA.

[*Contributed by* C. L. Beazley, Esq., *Legislative Counsel.*]

Seventy-one Public, twenty-four Local and thirty-four Private Acts were passed by the Legislature of Nova Scotia in the year 1947, of which the most important were c. 127, 128 and 129—Acts dealing with the temporary transfer of taxing jurisdiction to the Dominion in respect of succession duty, income tax, corporation tax and corporation income tax. From and after April 1, 1947, and continuing until the thirty-first day of March, 1952, the Province and its municipalities withdraw from these fields except to the extent authorised or permitted by the agreement between the Province and the Dominion.

A large proportion of the other Acts, being of a local or personal character, or effecting only slight amendments, are not specifically referred to in this review.

Trade Unions.—C. 3 is an Act respecting the right of employees to organise and provides for mediation, conciliation and arbitration of industrial disputes.

Fishermen's Federation.—C. 4 provides for County organisations of fishermen for the purpose of bargaining collectively.

Village Services.—C. 5 to a large extent consolidates the provisions of the old Village Supply Act but simplifies the procedure for enabling the inhabitants of certain villages to supply themselves with certain services such as electric light, fire protection, sewer and water services, sidewalks and police protection.

Vocational Education.—C. 7 relates to instruction below that of university level to fit persons for gainful employment or to increase their skill or efficiency therein, and provides for the establishment of schools for such purposes.

Factories.—C. 8 amends and consolidates the existing Act and its amendments for the protection of persons employed in factories.

Labour.—C. 11 continues Nova Scotia Labour Act in force for a further period to the first day of May, 1948. It applies to persons or corporations having twenty-five or more employees and restricts hiring of workmen who have not been residents of the Province for at least a year.

Finance.—C. 20 is an annual Act enabling Towns and Municipalities to borrow money, subject to the control of the Minister of Municipal Affairs, for the purpose of refinancing and cleaning up outstanding indebtedness.

Insurance Adjusters.—C. 31 relates to licensing of adjusters and makes it an offence to act as such without a licence.

Insurance Companies.—C. 35 provides for a levy on insurance companies to furnish means for supporting the department which regulates the insurance industry in the Province.

Gasoline Tax.—C. 38 provides for an increase in gasoline tax from ten cents a gallon to thirteen cents a gallon.

Coal Mines.—C. 39 is designed to bring coal mining regulations more in line with practice in other parts of the Dominion and contains amendments relating to certificates of competency for certain mine officials and workmen.

Old Age Pensions.—C. 41 increases permissible total of supplemental allowance, income and pension in connection with grant of such supplemental allowance, from $365 per annum to $425 per annum.

Assessment.—C. 47 provides for appointments of a Provincial Assessment Board by the Governor in Council and of Directors of Assessment by Municipal or Town Councils with a view to obtaining uniformity in assessment practices throughout the Province. It also enables relief for the current year of taxpayers who, from sickness or extreme poverty, are unable to pay their rates and relief for the current or any previous year of those wrongly charged by reason of a gross and manifest error in the Assessment roll.

Workmen's Compensation.—C. 48 adds to the industrial diseases for which compensation may be awarded, as for an accident, under the Workmen's Compensation Act.

Parking Meters.—C. 57 authorises towns to make by-laws dealing with parking meters and requiring drivers of vehicles parked on certain highways to pay fees for such parking according to a scale prescribed by the by-law and as measured by the meter.

7. ONTARIO.

[*Contributed by* K. G. Morden, Esq., K. C.]

Acts passed 143: Public 119, Private 24.

Forestry.—Large-scale lumbering operations in Ontario are generally carried on under licence on Crown lands. There has been a growing public feeling that the licensees should be more closely controlled in their operations. The Forest Management Act (c. 38) provides that everyone who has cutting rights in a Crown timber area shall, when required by the Minister of Lands and Forests, furnish to him an estimated inventory of the timber in the area, a proposed master plan for managing the area and a map showing the division of the area into operational units. The Minister may approve the plan as submitted or with alterations as he may deem advisable. In addition, the licensee will submit annually a plan for cutting operations and a map showing the result of cutting operations of the previous year. The Minister may suspend or cancel the agreement or licence of any person who fails to comply with the approved master plan.

Highway Traffic.—The Highway Traffic Act provided for proof of financial responsibility after an accident has occurred and a judgment remains unsatisfied. The Act is amended (c. 45) by provision for the establishment of an Unsatisfied Judgment Fund, into which is paid a fee exacted at the time of the issue or annual renewal of every driver's licence. This Fund is available for the payment of two classes of claims:—(*a*) Where a judgment is obtained for damages occasioned by a motor vehicle owned or operated by a judgment debtor in Ontario and the debtor has no or insufficient assets or insurance to satisfy the judgment, a Judge of the Supreme Court may direct payment of the amount of the judgment out of the Fund, but not to exceed $5,000 for injury to or death of one person or $10,000 for two or more persons and $1,000 for property damage. Before payment is made the judgment creditor must assign his judgment to the Minister of Highways; (*b*) Where injury to or death of any person is occasioned by a motor vehicle but the identity of the driver and owner of the vehicle cannot be established, any person who has a right of action for such death or injury may apply to the Court for an order permitting him to bring an action in the Supreme Court against the Registrar of Motor Vehicles, who shall, upon the order being made, for all purposes of the action, be deemed to be the defendant

and a judgment obtained against the Registrar shall be paid out of the Fund, subject to the limits set out under (*a*). If the identity of the owner or driver is later established, the judgment shall bind him and the Minister shall be deemed to have a judgment against such person for the amount paid out of the Fund. It may be of interest to note that a fee of $1.00 for each licensed driver was exacted in 1947, but the Minister of Highways has stated that the size of the Fund makes is unnecessary to exact any fee in 1948.

Municipal Police and Firemen.—The Police Act has been amended (c. 77) to provide for bargaining and arbitration between municipalities and members of police forces for the purpose of defining, determining and providing for remuneration and working conditions. The municipality, when requested, must bargain in good faith with the members' bargaining committee. If an agreement cannot be reached, all matters in dispute are referred to a board of arbitration. Every agreement and award shall be binding upon the municipality and the members of the force, but one involving the expenditure of money shall not be enforceable until the commencement of the next fiscal period and nothing in the Act shall require the continuance in force of the agreement or award for more than one year. The Act prohibits a policeman from being a member of a trade union and provides penalties for causing disaffection in the force, inducing a policeman to withhold his services, or being a policeman, for withholding his services. The Fire Departments Act (c. 37) has similar provisions for bargaining and arbitration, but there is no prohibition against firemen being members of a union, nor are there penalties for withholding their services.

Electricity.—The demand for electrical power in Ontario has increased more rapidly than the facilities for its generation and this situation is the reason for amendments to the Power Commission Act and the Public Utilities Act. Broadly speaking, the Hydro-Electric Power Commission of Ontario generates power and sells it to the municipalities and they, in turn, sell it to the consumers. The Commission (by c. 79) is empowered, when it is of the opinion that a state of emergency exists, to allocate and distribute its power among its purchasers and interrupt or decrease the delivery of power in order to effect economical, efficient and equitable use and distribution of power. Municipalities which supply power obtained from the Commission are (by c. 91) given the same powers of allocation and distribution among their customers. Both Acts provide that the exercise of these powers shall not be deemed a breach of contract or entitle the other party to the power contract to rescind it.

Unclaimed Articles.—C. 111 confers a right upon persons with whom articles of clothing or household goods have been deposited for cleaning, pressing, glazing, washing or repairing or for storage in respect of which the agreed or reasonable charges for services have not been paid at the end of six months or charges for storage have not been paid at the end of two years, to give such articles to charitable organisations or in case of articles valued at not more than $100 to sell them (and apparently, keep the proceeds, although the Act is silent as to this).

Blind Persons.—The White Canes Act (c. 116) makes it an offence for any person other than a blind person (who is defined by reference to registration with the Canadian National Institute for the Blind, or to the Pension Acts) to carry or use a white cane in any public thoroughfare, conveyance or place. The Act does not apply to persons who are not residents of Ontario.

8. PRINCE EDWARD ISLAND.

[*It is hoped to publish the review in the next issue.*]

9. QUEBEC.

[*Contributed by* The Hon. Mr. Justice Fabre Surveyer.]

Public statutes 77, private statutes 86; total 163.

Provincial-Federal Relations.—Since the British North America Act of 1867 is considered to be in the nature of a pact between the four pioneer provinces of Canada, c. 4 authorises the Provincial Government to conclude any effective and just agreement with the Federal Government for the purpose of defining their respective taxation fields, of reducing taxes to reasonable proportions, and of attaining the object of the pact.

Annexation of Ungava.—C. 5 consents to the repeal by the Parliament of Canada of several provisions of the Quebec Boundaries Extension Act, 1912, c. 7; the population of Ungava is now included in the total population of the province for purposes of representation in the Canadian Parliament.

Veterinary Medicine.—In order to further agricultural prosperity, c. 16 enacts that the government may establish and maintain a School of Veterinary Medicine under the jurisdiction of the Minister of Agriculture at Saint Hyacinthe. The Act provides for the erection of the necessary buildings, and for the payment of six hundred thousand dollars out of the consolidated revenue fund for that purpose.

Juvenile Delinquency.—Recognising that juvenile delinquency is a social problem needing particular attention to find its causes so as to apply suitable remedies and give aid in re-establishing young delinquents, under c. 17 the Cabinet is authorised on the recommendation of the Minister of Social Welfare and of Youth to constitute a committee of inquiry composed of at least four members, including a chairman, and to fix their remuneration and add a secretary and other employees if necessary.

The duties of the committee are delineated by the Act: to make diligent inquiry into this problem, its causes, extent, the measures needed to check it and to aid in rehabilitating its victims. The Minister, in addition, if authorised by the Cabinet, may make agreements at his discretion with corporations, societies and persons in the carrying out of this Act, which provides also for a report to the Minister by the committee within one year after its constitution.

Elections.—C. 21, amending the Quebec Election Act, 1945, c. 15, in various ways decrees that a domicile of two years is now required as a qualification to vote, and that Canadian citizenship is required instead of Canadian nationality as formerly.

Courts of Justice.—The Courts of Justice Act, 1941, Revised Statutes, c. 15 is amended by c. 24 enacting that the composition of the Superior Court is a chief justice, an associate chief justice and thirty-five puisne judges.

Juvenile Delinquents' Courts.—C. 25 provides for the appointment of an officer to act as clerk of the Juvenile Delinquents' Court at Montreal, together with deputy-clerks acting as assistants, all appointments being under the provisions of the Civil Service Act; the officers have power to perform all acts and conduct all proceedings under provincial legislative authority, with the exception of rendering judgments or pronouncing sentences. The Act was brought into force July 1, 1947, by proclamation of the Lieutenant-Governor in Council.

Electricity.—Among various amendments to the Provincial Electricity Board Act, 1941; Revised Statutes, c. 16A, as enacted by 1945, c. 21, c. 26 declares that the controllers composing the Board remain in office until replaced or reappointed, and exempts them as well as the secretary, officers and employees of the Board from all personal liability for official acts done in good faith in the performance of their duties.

Transportation and Communication.—Under c. 27, the controllers, secretary, officers and employees of the Provincial Transportation and communication

Board are also exempted from liability for acts performed in good faith in the exercise of their functions.

Moving Pictures.—Cinematographic performances in open air are prohibited by c. 29, amending the Moving Pictures Act, 1941 Revised Statutes, c. 55; however, the Act permits the Attorney-General to allow performances given for religious, educational or patriotic purposes.

Physicians.—For the purpose of encouraging physicians to establish themselves in country districts, where the population suffers from a lack of medical care, c. 31 empowers the Government to expend a sum of one million dollars out of the consolidated revenue fund, during a period of ten years from the coming into force of the Act; the Act, moreover, regulates concerning scholarships to specified medical students and to all other physicians who undertake to reside and establish themselves in country districts.

Education.—C. 32 increases the number of companies which contribute to the Education Fund, including companies refining petroleum, and those owning or operating telephone systems with paid-up capital exceeding one million dollars. The amount of their contributions is fixed, and is borne exclusively by the companies themselves, no claim being permitted for reimbursement by increasing the rate of services, the price of products, *etc.*

Corporation Tax.—C. 33, repealing the Corporation Tax Act, 1939, c. 19 and 1941 Revised Statutes, c. 77 which reproduces the text thereof, enacts among various new provisions, that the tax based on profits of holding companies, ordinary companies, telegraph, tobacco, brewery, liquor, telephone companies, *etc.*, is changed from an annual five per cent tax to one of seven per cent per annum; if authorised by the Cabinet, the Provincial Treasurer may conclude agreements with governments and public bodies in order to co-ordinate and simplify methods of collecting taxes.

Gasoline.—Considering that the needs of agriculture, commerce, industry and the tourist traffic require a great expansion of the road system, particularly in the rural regions, and that heavy and intensive traffic during the war period has damaged it, c. 34 states that the tax on the sale of gasoline of eleven cents per gallon Imperial measure is to be applied to the improvement of the road system—the tax was formerly eight cents per gallon.

Forest Resources.—In its preamble, c. 35 declares that for the purpose of developing forest resources, a rational and progressive general plan is needed, and the Act authorises the government to make a complete inventory of all forest resources, their extent and value; and, in addition, it authorises the undertaking of studies and inquiries as to the best method of preserving, renewing and utilising these resources for the greatest benefit of the population.

To this end, the Cabinet is empowered to appoint the specialists, counsel, *etc.*, needed, and to fix their remuneration; a sum not exceeding two hundred thousand dollars may be expended by the government out of the consolidated revenue fund.

Hydro-electric Commission.—C. 39 states that the Commission was authorised to offer the shareholders of the capital stock of the Montreal Light, Heat and Power Consolidated the sum of Twenty-five dollars per share, and that over eighty per cent of the holders have accepted the offer, whilst a great many others wish to accept but are prevented by testamentary and fiduciary provisions; it is, therefore, in the public interest and favours provincial credit for the Commission to acquire all these shares without expropriation proceedings.

The Commission is, therefore, authorised to acquire by private agreement all shares at the price of twenty-five dollars a share, and, notwithstanding any provision to the contrary contained in wills, trust deeds, *etc.*, legatees, executors, *etc.*, are enabled to sell to the Commission without any formalities of justice in thirty days of the coming into force of the Act; all shares not so acquired are

all personal and real property of the company becomes the property of the Commission as agent of the Crown in the rights of the Province.

The Commission is also authorised to order the trustee Montreal Trust Company to deliver to it all moneys, titles, bonds, *etc.*, of the company which it holds as investment or otherwise, the Commission being empowered to redeem all bonds except bonds amounting to thirteen million dollars and not redeemable before July 1, 1960; but if these bonds are guaranteed by the Cabinet, the Act provides for the freeing of all the property affected, and for the cancellation of the charter of the Montreal Light, Heat and Power Consolidated, *etc.*

Land Drainage.—Considering that the vast programme of land improvement by means of drainage undertaken by the government, for which the sum of seven million dollars has been assigned, is a salutary policy, c. 42 increases the sum to be expended for the expansion of arable land, and authorises the Provincial Treasurer to pay out of the consolidated revenue fund a further sum of one million dollars.

Farm Credit Bureau.—C. 43 enables the Farm Credit Bureau to lend an additional sum of five million dollars to farmers. The Bureau, since its creation in 1936, has made loans of a total sum in excess of fifty-four million dollars to farmers, who have not only paid interest and annuities but in many cases have reimbursed considerable sums in advance, justifying the confidence placed in them; thousands of farmers have saved their lands, and established their sons in country districts. The entire rural economy has been strengthened by the aid given by the Bureau.

Game.—Amending the Game Act, 1941 Revised Statutes, c. 153, as amended by 1945, c. 40, c. 49 permits the seizure by game wardens of certain jack lights and other artificial lights intended for hunting moose, caribou and deer, and forbids the hunting of game, animals or birds at night or with automatic rifles; the Act regulates concerning the transportation of game and the exporting of pelts.

Minimum Wages.—By various amendments, c. 53 enacts in regard to the application of the Minimum Wage Act, vacations with pay, *etc.*

Needy Mothers.—C. 55, amending the Needy Mothers Assistance Act, 1941 Revised Statutes, c. 180, defines a child as any legitimate child, including a step-child, under sixteen years of age, or any child under nineteen who cannot work because of physical or mental disability; it delineates the new conditions required by a mother to receive a monthly allowance: if she possesses Canadian citizenship by birth, or has acquired it fifteen years ago, or is the wife or widow of a Canadian citizen, if she has had a domicile in the province for a period of five years at least, and if she is the widow or wife of a husband held in a prison or other place of detention for one year or more.

The Act, in addition, authorizes allowances to needy mothers in special cases where it is deemed equitable and in conformity with the spirit of the Act.

Bar.—Under c. 62, the duration of the regular law course is extended to four years, and among other provisions Canadian Citizenship is required for admission to practice the legal profession.

Seigniorial Rent Abolition.—C. 69 amends the Seigniorial Rent Abolition Act, 1941 Revised Statutes, c. 322, in various ways.

Discharge of Debtors.—The Civil Code is amended by c. 71 by adding articles 1202A to 1202L, which provide that whenever an immovable is sold at law and adjudged to the creditor of a debt guaranteed by privilege or hypothec, the debtor has the right to obtain his release from the creditor under certain conditions.

Instalment Sales.—The Civil Code is also amended by c. 73 adding articles 1561A to 1561J to regulate instalment sales: the initial payment is at least fifteen per cent of the instalment plan sale price and is paid only by currency or the giving of another chattel in payment.

Code of Civil Procedure.—C. 76, amending the Act to Improve the Code of Civil Procedure, 1945, c. 69, decrees that a preliminary draft of a new Code of Civil Procedure is to be prepared by the commissioner containing the changes in form and substance recommended by him, and a report giving his reasons for the recommendations being delivered to the Attorney-General before October 1, 1947.

10. SASKATCHEWAN.

[*Contributed by* J. P. Runciman, Esq., K.C. *Legislative Counsel.*]

Of the 125 Acts passed 118 were Public and 7 Private.

Legislative Assembly.—No. 2, the sessional indemnity of $2,000 payable to members of the Assembly was allocated thus:—$1,350 as indemnity and $650 as an allowance for expenses incidental to discharge of duties as member.

Public Service.—No. 4 consolidating and revising The Public Service Act follows upon a recent complete reclassification of the public service. The purpose of the Act, as indicated in the preamble, is to establish a system of personnel administration based upon merit principles and objective methods governing the classification of positions, appointments, *etc.*

Social Welfare.—Amendments to the Department of Social Welfare Act (No. 9) and The Gaols Act (No. 107) transferred responsibility for administration of gaols from the Department of Public Works to the Department of Social Welfare.

Government Telephone Service.—(No. 10.) The Lieutenant Governor in Council was authorised to create a Crown corporation under the Crown Corporations Act, to take over the ownership and control of the public telephone system. That has been done.

Power Commission.—(No. 11.) The Lieutenant Governor in Council was also authorised to create a Crown corporation to take over the ownership and control of the property of the Saskatchewan Power Commission, and that has also been done.

Crown Corporations.—No. 13 is a revision of The Crown Corporations Act, 1945. Part I carries forward, with minor changes, the provisions of the Crown Corporations Act, 1945, relating to the establishment of Crown corporations. Part II establishes a Government Finance Office as a corporation, with power to handle financial affairs for Crown corporations and certain other governmental bodies and to administer a revolving fund for encouraging industries in the province. The finance office also has extensive powers over the finances of boards, commissions, offices and Crown corporations, including the receiving of all moneys appropriated by the Legislature for those bodies, the assumption by the office of liability for all loans made to those bodies by the Crown, borrowing money from banks or other loaning agencies and making financial regulations governing the operations of those bodies.

Automobile Accident Agreement.—No. 15 is a revision of the Automobile Accident Insurance Act, 1946. The new Act, in addition to the protection given by the repealed Act, insures an owner of an automobile against loss of or damage to the automobile caused solely by accidental collision with another object, either moving or stationary, or by accidental upset.

Taxation Agreement.—No. 23 authorises the Government of Saskatchewan to enter into an agreement with the Government of Canada, in the form set forth in the schedule to the Act. Under this agreement the Dominion pays to the province a minimum annual grant amounting to around $15,000,000, which includes the statutory annual subsidy, and in return the Dominion has exclusive use of the income tax, corporations tax and inheritance tax fields.

Corporation Income Tax.—No. 24 is authorised by the above-mentioned agreement, which provides that Saskatchewan may enact legislation imposing

income tax for provincial purposes at a rate of five per cent per annum on income of corporations attributable to their operations within Saskatchewan. Another Act (No. 25) authorises an agreement with the Government of Canada whereby the said tax will be collected by officers of the Dominion.

Education Tax.—No. 26 amending the Education Tax Act removes the two per cent tax on retail purchases from all foodstuffs, including meals, groceries, meats, fruits, vegetables, soft drinks, candy and confectionery; from drugs, including proprietary and patent medicines and medicines sold upon prescriptions; and from second-hand goods in respect of which education tax has been paid.

Gasoline Tax.—(No. 27.) The tax per gallon on retail purchases of gasoline was increased from eight to ten cents, the Dominion having withdrawn its war-time three cent tax.

District Courts.—(No. 30.) The jurisdiction of district courts was extended to include actions for an accounting where the amount recovered does not exceed $1,200.

Evidence.—A provision of The Saskatchewan Evidence Act was widened by No. 32 with respect to the persons before whom oaths, affidavits, affirmations or statutory declarations may be administered, sworn, affirmed or made in other parts of His Majesty's dominions or in foreign countries.

Limitation of Actions.—No. 34 adds to The Limitation of Actions Act by providing that where any person has a claim against the estate of a deceased person and the claim was not barred at the date of death of such person, an action may be brought to recover the claim within the time otherwise limited for the bringing of the action or within two years from the date of death, whichever period is the longer.

Bill of Rights.—A new Act (No. 35) intituled The Saskatchewan Bill of Rights Act, 1947, affirms fundamental freedoms and rights and prohibits discrimination on racial or religious grounds. It declares the right to freedom of conscience, religious association and speech and provides that no person shall be discriminated against by reason of race, creed, religion, colour or ethnic or national origin, with respect to employment, business or occupation, the renting or leasing of property, access to public places, membership in professional, labour or other organisations, or education. The only exceptions are educational institutions where a particular creed or religion is taught, domestic service or employment involving a personal relationship. Publication or display of anything tending to cause racial or religious discrimination is prohibited.

Municipal Franchise.—(Nos. 43 and 44.) The franchise in city and town elections of councillors was extended to persons of the full age of eighteen years, hitherto twenty-one years.

Vegetable and Honey Sales.—(No. 70.) The Vegetable Sales Act, enacted in 1946, was revised for the purpose of extending its application to honey produced in Saskatchewan, except when sold directly by the producer to a consumer for consumption and not for resale.

Guarantee by Province of Repayment of Loans for Co-operative Purposes.—The Co-operative Guarantee Act (No. 74), a new measure, empowers the Lieutenant Governor in Council to authorise the Provincial Treasurer (*a*) to guarantee on behalf of the province repayment of moneys lent by Saskatchewan Co-operative Credit Society to co-operative associations or credit unions for certain specified purposes or (*b*) to lend money to the said society for the purpose of assisting it to make loans to co-operative associations or credit unions.

Collection Agencies.—Act No. 78 replaces The Collection Agents Act. Every application for a licence must be accompanied by (*a*) copies of the forms of agreements to be entered into with clients; (*b*) copies of forms which the applicant proposes to use in making demands for payment; and (*c*) a bond or negotiable security in the sum of $2,500 for the faithful, honest and lawful conduct by the

applicant and his employees of his business. Every application for renewal of a licence must be accompanied by a certificate satisfactory to the Provincial Secretary as to the financial condition of the collection agency, and the Provincial Secretary may from time to time require the agency to furnish financial statements. All moneys collected by the agency, less commission, must be deposited in a separate trust account, and the agency must within thirty days account for all moneys collected and pay the same over, less its fees, to the persons entitled thereto. Provision is also made for forfeiture or assignment of the bond or security furnished by the agency.

Landlord and Tenant.—No. 81 amends The Landlord and Tenant Act by repealing provisions which imposed upon overholding tenants penalties of double the yearly value of the land or double the rent.

Fire Prevention.—A new section inserted by No. 85 in The Fire Prevention Act confers wide powers upon the Lieutenant Governor in Council to make regulations governing the prevention and extinguishment of fires.

Public Health.—An amendment (No. 87) to The Public Health Act provides that, if a municipal medical health officer or the Minister of Public Health is aware that a person has been definitely diagnosed as having tuberculosis in the open or infectious form, the officer or minister may, if he considers it necessary to prevent the dissemination of infection, cause such person to be removed to a sanatorium and may, in case of resistance, call for police or other assistance.

Economic Stabilisation.—A new Act (No. 91) intituled The Economic Stabilisation Act, empowers the Lieutenant Governor in Council to do and authorise the doing of such acts and things and to make such orders and regulations as he may deem necessary or advisable for the purpose of (*a*) controlling and regulating services performed within the province or any part or parts of the province by residents of the province or any class or classes of such residents, and the prices or remuneration payable for such services; (*b*) controlling and regulating the prices at which goods, wares or merchandise or any class or classes thereof shall be purchased or sold by retail within the province or any part or parts of the province for use in the province; and (*c*) controlling and regulating rentals of real property and the use and occupation of real property within the province or any part or parts of the province, or any class or classes of such property. The Act is to come into force upon proclamation.

Motor Vehicles.—A provision inserted by No. 93 in The Vehicles Act prohibits the operation of a motor vehicle, other than a motor cycle, upon a public highway if the brakes of the vehicle cannot, by means of the foot brake, be applied to the full extent without depressing the foot brake pedal to a point at which its lower surface is less than one inch from the floor board.

Child Welfare.—Provisions imposing liability for the maintenance, medical care and education of certain children were inserted by No. 94 in The Child Welfare Act. These provisions declare (*a*) that every parent shall be liable for the maintenance, medical care and education of his children under the age of sixteen years, regard being had to his station in life and means and to the ability of the child to maintain himself; (*b*) that every man who marries a woman who has a child at the time of the marriage shall, if he is at such time aware of the existence of the child, be liable to maintain the child as a part of his family until the child attains the age of sixteen years; and (*c*) that every woman who marries a man who has a child at the time of the marriage shall, if she is at such time aware of the existence of the child, be liable to maintain the child as a part of her family until the child reaches the age of sixteen years.

Workmen's Compensation.—No. 99 by amending The Workmen's Compensation (Accident Fund) Act increases the compensation payable to the dependants of a workman in case of his death through injury.

Trade Unions.—An Amendment (No. 102) to The Trade Union Act provides that an application to enforce any order of the Labour Relations Board may be

made to the court by and in name of the board, any trade union affected or any interested person and that upon the hearing the court shall be bound absolutely by the findings of the board and shall make such order or orders as may be necessary to cause every party with respect to whom the application is made to comply with the order of the board. Another amendment provides that the board may in its own name appeal from any judgment, decision or order of any court affecting any order or decision of the board.

Hours of Work.—The Hours of Work Act (No. 103), a new measure, establishes a forty-four hour week with a basic eight-hour day for all employees employed (*a*) in or within a radius of five miles of any city; (*b*) in, about or in connection with any office or shop located in any portion of the province to which The Minimum Wage Act from time to time applies; or (*c*) in, about or in connection with any factory. Payment must be made at the rate of time and a half for overtime work. Where present hours of work exceed forty-four a week, the employer is prohibited from reducing the previously established rate of wages until the expiry of one year from the coming into force of the Act. The Act does not apply to agricultural, horticultural or dairy workers, employees engaging in an undertaking in which only members of the employer's family are employed, domestic servants, certain janitors and caretakers, persons who regularly travel in the course of their duties to two or more cities, towns or villages at least ten miles apart, fire department employees and certain employees engaged solely in a managerial capacity.

University Hospital.—Act No. 110 establishes as a body corporate a board consisting of seven persons with power to lease from the University of Saskatchewan such land as may be required for the purpose of a hospital and to construct on the property so leased a hospital to be known as The University Hospital. The management, administration and control of the property, revenues, business and affairs of the hospital are vested in the board. The board is empowered to make provision for the care and treatment of the sick for educational facilities to students of medicine, surgery and kindred matters and in particular to provide facilities for the prevention, diagnosis and treatment of disease and to educate and train students in medicine, nursing and other associated services. Provision is made for payment to the board of sums appropriated by the Legislature for the maintenance and support of the hospital and the expenses of the board.

Change of Name.—No. 113 is a consolidation and revision of the Change of Name Act and transfers administration from the Department of the Provincial Secretary to the Director of Vital Statistics in the Department of Public Health.

Research Council.—No. 114 establishes as a body corporate a council to be known as The Saskatchewan Research Council consisting of not more than eleven persons to be appointed by the Lieutenant Governor in Council. The council is directed to take under consideration matters pertaining to research and investigation in the fields of the physical sciences as they affect the economy of the province and is empowered (*a*) to enter into arrangements with the University of Saskatchewan, other universities, Government departments and research agencies for the performance, on behalf of the council, of research projects or the conduct of inquiries; (*b*) to carry on research, investigations and studies for other persons or bodies; (*c*) to purchase or otherwise acquire inventions or any right therein; and (*d*) to publish documents, pamphlets, articles or monographs.

Consolidations.—In addition to those already mentioned several Acts were consolidated and revised, including The City Act, The Town Act, The Social Aid Act, The Union Hospital Act and The Fire Departments Platoon Act.

11. NEWFOUNDLAND.

[*Contributed by* H. G. PUDDESTER, ESQ., K.C., LL.B.]

DURING the calendar year 1947 forty Acts were passed. Many of these make minor amendments or involve administrative matters of merely local interest. Only those referred to seem likely to be of any general interest.

Income Tax.—No. 1 amends the Income Tax Consolidation Act, 1944, to provide for an increase in the deduction allowed in respect of contributions, to approve superannuation or pension funds, to increase the supertax on incomes of individuals in excess of $8,000 and to increase the rate of corporation tax from 22½% to 35% on that portion of a corporation's income in excess of $5,000.

Excess Profits Tax.—No. 2 repeals the Excess Profits Tax Consolidation Act, 1944. The repealing Act was given effect from December 31, 1945, but where the fiscal period of a corporation ends on a day other than that date, the corporation is liable for such proportion of the taxes provided for in 1944 Act as the number of days in the calendar year 1945 bears to the total number of days of its fiscal period ending in 1946.

British Admiralty Property.—No. 5 vests indefeatably in the British Admiralty as owner in fee simple the lands, easements and rights appurtenant thereto acquired in Newfoundland by the Admiralty by purchase or otherwise for the purpose of establishing a naval base for defence purposes, and the Admiralty is given all the rights, power and authority for defence purposes which are necessary for the establishment, use, operation and defence of the naval base or appropriate for its control. The lands are not to be used for commercial purposes without the prior consent of the Newfoundland Government.

Bait Fishes.—No. 12 suspends the operation of c. 156 of the Consolidated Statutes (Third Series) (which deals with the exportation and sale of bait fishes) as respects herring from June 1, 1947, to May 31, 1948.

Air Navigation.—No. 22 authorises the issue of regulations to regulate and control the aerial navigation over Newfoundland and its territorial waters. Detailed regulations may be made dealing with, *inter alia*, licensing of pilots, aircraft and airdromes, use and control of aerial routes, investigation of accidents, erection of buildings and display of light in the vicinity of airports, prohibition of navigation of aircraft over such areas as may be prescribed and the areas within which aircraft may land in Newfoundlnd and the conditions to be complied with by such aircraft. A comprehensive set of regulations along these lines is scheduled to the Act.

Minimum Wages.—No. 31 is designed to provide for the fixing of minimum wages for workmen, and provision is made for the appointment of an advisory committee to investigate the terms and conditions of employment in any trade, industry, business, or occupation. The Governor in Commission may, upon considering the recommendations of an advisory committee, prescribe the minimum rates of wages to be paid to workmen.

Insect Pests.—No. 33 authorises the Governor in Commission to make regulations to prevent the introduction into Newfoundland or the spreading therein or the export therefrom of any insect pests or disease destructive to vegetation.

Salt Codfish.—No. 36 authorises the payment out of the Consolidated Revenue Fund to Newfoundland Associate Fish Exporters Limited, or its nominees, in respect of salt codfish produced in Newfoundland during 1947 and shipped or intended to be shipped in performance of a contract entered into prior to August 20, 1927, for sale to Italy, Spain or Portugal and of all contracts in substitution for any such contract entered into since that date for sale to any European country. The sum to be paid out is limited to $6,000,000 and is to be the equivalent in Canadian dollars of the sterling value of the sale price of the fish.

12. BERMUDA.

[*It is hoped to publish the review in the next issue.*]

III. AUSTRALIA.

1. COMMONWEALTH OF AUSTRALIA.

[*Contributed by* M. C. Boniwell, Esq., C.B.E., *Parliamentary Draftsman.*]

Among the more important of the 93 Acts passed during the year under review were the Banking Act, the Conciliation and Arbitration Act, the Social Services Consolidation Act and the Stevedoring Industry Act. Subject matters which accounted, in some measure, for the more than usually large number of Acts passed were External Affairs, Airlines and Air Navigation, Taxation, Customs and Excise.

Airlines.—The Australian National Airlines Act (No. 90) effects a number of amendments in the Australian National Airlines Act 1945. Those amendments include provision enabling the Australian National Airlines Commission to transport mails by air between any places in Australia. It also provides that where the Parliament of any State has referred to the Parliament of the Commonwealth the matter of air transport or the regulation of air transport, the Commission may establish airline services within that State for the transport of passengers and goods. The British Commonwealth Pacific Airlines Agreement Act (No. 32) authorises the execution by the Commonwealth of an agreement between Great Britain, Australia and New Zealand for the purpose of establishing, operating and developing trans-Pacific air services between Australia and North America and between New Zealand and North America.

Air Navigation.—The Air Navigation Act (No. 6) amends the Air Navigation Act 1920-1936 and approves the ratification on behalf of Australia of the Chicago Convention on International Civil Aviation concluded at Chicago on December 7, 1944. The Air Navigation Act (No. 2) (No. 89) makes further amendments by enlarging the power to make regulations to give effect to the Convention.

Aliens.—The Aliens Act (No. 22) provides for the registration of aliens. A Register of Aliens is established and aliens are required to be registered as such. A registered alien who changes his place of residence or changes his occupation or employment is to notify a prescribed officer. Regulations may be made for obtaining information as to the movement, employment and location of aliens in the Commonwealth.

Assistance to States.—The States Grants Act (No. 31) grants and applies out of the Consolidated Revenue Fund the sum of £1,078,000 for financial assistance to the States of South Australia, Western Australia and Tasmania during the year which commenced on July 1, 1946. The States Grants Act (No. 2) (No. 67) grants and applies a further sum of £5,042,000 for assistance to those three States during the year commencing on July 1, 1947. The States Grants (Tax Reimbursement) Act (No. 62) increases the amount payable under the States Grants (Tax Reimbursement) Act, 1946, by way of financial assistance to States which have not imposed taxes upon incomes. The amount to be distributed among the States is £5,000,000 in respect of the year ending on June 30, 1948, and in respect of each subsequent year an amount equal to the amount (if any) by which the aggregate grant in respect of that year is less than £45,000,000.

Apples and Pears.—The Apples and Pear Export Charges Act (No. 45) increases the charge on the export of apples and pears under Act No. 59 of 1938 from three farthings per case to one penny per case. The Apple and Pear Organisation Act (No. 44), makes some alterations in the constitution of the Apple and Pear Board which was set up under Act No. 58 of 1938 with functions, mainly advisory, in relation to the overseas trade in apples and pears.

Banking.—The purpose of the Banking Act (No. 57) is, in the words of the Treasurer's Second Reading Speech, " to empower the Commonwealth Bank to take over the Banking business at present conducted in Australia by private banks "—in other words, to nationalise banking in Australia. The validity of the Act has been the subject of challenge in the High Court but at the moment

of writing the Court has not given its decision. The banks carrying on trading business (as distinct from savings bank business) in Australia may be divided into three classes. The first class consists of the Commonwealth Bank, which is the central bank and which also carries on general banking business. The second class consists of State banks. Under the Constitution the Commonwealth Parliament has no power to legislate with respect to State banking (except in so far it extends beyond the limits of the State concerned) and the Act does not apply to State banks. The third class consists of fourteen privately owned banks and these may be divided into three groups (see the First Schedule to the Act). The first group consists of eight private banks incorporated in Australia. Of these, six carry on some banking business outside Australia. The second group consists of three banks which are incorporated in the United Kingdom but carry on almost the whole of their business in Australia. The third group consists of three " foreign " banks—one incorporated in New Zealand, one in China and one in France, the great bulk of their business being outside Australia. The Act accordingly contains such provisions as are appropriate to the circumstances of each of these three groups of private banks carrying on business in Australia.

The Act provides (s. 13) that, where the majority in number of the shares in a private bank incorporated in Australia are Australian shares (that is, shares situated, or deemed by law to be situated, in Australia) the Treasurer may, by notice, declare that the Australian shares of that Bank shall be vested in the Commonwealth Bank. The Commonwealth Bank is required (s. 15) to pay fair and reasonable compensation in respect of the acquisition. Upon the date on which the Australian shares in an Australian private bank become vested in the Commonwealth Bank the Directors of that bank cease to hold office (s. 17) and the Governor of the Commonwealth Bank may appoint Directors in their place (s. 18.) Under s. 19 the Directors so appointed are given full power to manage the bank of which they are Directors and to dispose of its business to the Commonwealth Bank.

Under s. 22 the Treasurer may by notice to a private bank (whether incorporated in Australia or not) invite the bank to make an agreement with the Commonwealth Bank, not later than a specified date, for the taking over by the Commonwealth Bank of the business in Australia of the bank to which the notice is given. Failing the making of such an agreement before the specified date the business in Australia of the private bank will be taken over compulsorily by the Commonwealth Bank (s. 24). Upon the date of transfer all the assets of the private bank which are Australian assets will, by force of the Act, be vested in the Commonwealth Bank and all the liabilities of the private bank which are Australian liabilities will, by force of the Act, be assumed by the Commonwealth Bank and the private bank will be discharged from its obligations in respect of them. The Commonwealth Bank is required (s. 25) to pay fair and reasonable compensation in respect of property so acquired.

It will be seen from the foregoing that two methods are provided for the taking over of the business of a private bank—the one by the acquisition of its shares (this method being limited to banks incorporated in Australia) and the other by the taking over of its assets and liabilities.

The Treasurer is empowered to require any private bank to cease carrying on banking business and a penalty is provided to meet any case in which such a requirement is disregarded.

For the purpose of deciding questions of compensation arising under the Act, Part V (ss. 26 - 36) establishes a new Federal Court—the Federal Court of Claims. As required by the Constitution this Court is permanent in character and the Act contains machinery whereby it may be vested with jurisdiction to decide claims for compensation arising under other Acts. There is to be no appeal from judgments of the Court of Claims.

Machinery is provided in Division 1 of Part VI (ss. 37 - 41) for the assessment of compensation in respect of the acquisition of shares and in Division 2 (ss. 41 - 45) in respect of the acquisition of assets. Part VIII (ss. 47 - 55) protects the rights of persons employed by private banks and contains machinery whereby they shall, unless they elect otherwise, become employed by the Commonwealth Bank. The Commonwealth Bank also assumes liability for pensions payable by Australian private banks to former employees.

Bounties.—The Tractor Bounty Act (No. 73) amends prior legislation on the subject of bounty on the production of tractors. Under that legislation bounty was available on tractors produced during a period of 8 years from October 24, 1939. The present Act extends the period up to October 23, 1950. The Wine Export Bounty Act (No. 42) enables bounty to be paid in respect of fortified wine which was sold to an overseas purchaser prior to October 30, 1946, and which is exported from the Commonwealth after February 28, 1947. Provision is made for terminating the payment, under prior Acts, of bounty on the export of wine.

Bounty is payable to the exporter who must satisfy the Minister that the sale price did not return a reasonable profit or that for some other reason the payment of bounty is justified. The rate of bounty is one shilling per gallon.

Coinage.—The Coinage Act (No. 25) amends the Coinage Act 1909 - 1936. Its effect is to alter the standard fineness of silver coins. That standard fineness was first dealt with under Commonwealth law in 1909 and until now has remained unchanged. The standard now fixed is one half fine silver and one half alloy.

Customs.—The Customs Act (No. 54) amends the Customs Act 1901 - 1936. It provides for the ascertainment on the basis of Australian currency of the value for duty of goods on which *ad valorem* duties are charged. The Customs Tariff (Southern Rhodesian Preference) Validation Act (No. 8) validates the collections of duties of Customs under the Customs Tariff (Southern Rhodesian Preference) Proposals introduced into the House of Representatives on November 14, 1946. The Customs Tariff Validation Act (No. 7) validates the collection of duties of Customs under Customs Tariff Proposals introduced into the House of Representatives on November 14, 1946.

Dairy Produce.—The Dairy Produce Export Control Act (No. 53) makes certain alterations in the constitution of the Australian Dairy Produce Board which was established by an Act of 1924. The Act transfers to the Board certain of the powers and functions which were exercisable during the war by an authority set up under regulations made under the National Security Act. A number of machinery amendments relating to the activities of the Board are included in the Act.

Defence.—The Approved Defence Projects Protection Act (No. 47) provides for the protection of approved defence projects. An approved defence project means any work or undertaking for the testing of long range weapons which is approved by the Minister of State for Defence by notice in the *Gazette* as an immediate defence project and includes any other work or undertaking for the defence of Australia which is so approved. Under the Act a person is guilty of an offence if by boycott or threat of boycott he prevents, hinders or obstructs the carrying out of an approved defence project. The publication of any declaration of such a boycott or threat and the advocacy or encouragement of the prevention, hindrance or obstruction of the carrying out of an approved defence project, are also offences. The punishment for an offence is a fine of not more than £500, or imprisonment for not more than six months if the offence is prosecuted summarily, and a fine of not more than £5,000 or imprisonment for twelve months or both if the offence is prosecuted on indictment. The Defence (Transitional Provisions) Act (No. 78) extends until December 31, 1948, the period during which the regulations in force by virtue of the Act are to remain operative. By omissions made in the First Schedule to the last-mentioned Act,

certain of the regulations in force under that Act, ceased to have effect on January 1, 1948.

Distillation.—The Distillation Act (No. 86) makes amendments in the Distillation Act 1901 - 1934 in respect of forfeitures and the distillation of spirits by unlicensed persons.

Drought Relief.—The New South Wales Grant (Drought Relief) Act (No. 43) grants the sum of £750,000 to the State of New South Wales for the purpose of drought relief. The amount is granted on conditions that it is to be applied by the State in the alleviation of hardship suffered in consequence of drought by persons concerned in the production of cereal crops, and that an equal amount is made available by the State for the same purpose.

Excise.—The Excise Act (No. 88) amends the Excise Act 1901 - 1942. The Collector of Customs for a State is empowered to exercise authority over proclaimed portions of adjoining States or Territories. Amendments are also made in respect of the currency of licences and the forfeiture of material found on premises where the manufacture of excisable goods is unlawfully carried on and of vehicles conveying forfeited goods. The Excise Tariff Validation Act (No. 9) validates the collection of duties of Excise demanded or collected under the Excise Tariff Proposals introduced into the House of Representatives on November 14, 1946. The Beer Excise Act (No. 20) amends the Beer Excise Act 1901 - 1928 in respect of the payment of excise duty on beer by the purchase of stamps by the brewer from the Collector. A further amendment permits a brewer to remove beer from a brewery without payment of duty when the beer is to be exported or is not dutiable. The Beer Excise Act (No. 2) (No. 85) makes further minor machinery amendments in the existing law.

Export.—The Egg Export Charges Act (No. 77) imposes a charge on eggs exported from the Commonwealth. The rate is 1/3d. per 30 dozen eggs in the case of eggs in shell, and in the case of eggs in liquid or dried form, is a corresponding rate calculated according to weight. The Egg Export Control Act (No. 76) repeals the National Security (Egg Industry) Regulations and constitutes the Australian Egg Board which consists of ten members. Of these ten, six members will represent poultry farmers and one member will represent the Commonwealth Government. The Board is empowered to make recommendations to the Minister in relation to the making of regulations to regulate the export of eggs from Australia, to make reports and recommendations as to standards and grading, and to purchase eggs intended for export. The Act provides for an Egg Export Fund into which is to be paid all moneys received under the Egg Export Charges Act, 1947. The Board is to apply the moneys in the Fund in payment for the purchases of eggs and other expenses of the Board.

External Affairs.—The International Labour Organisation Act (No. 91) approves the amended Constitution of the International Labour Organisation. The International Monetary Agreements Act (No. 5) approves of Australia becoming a member of the International Monetary Fund and of the International Bank for Reconstruction and Development established by Agreements concluded at Washington. Such provisions are made as are necessary by reason of Australia's membership. The Commonwealth Bank of Australia is designated as the depository in Australia for all the holdings of Australian currency of the Fund and of the Bank. The Treaty of Peace (Bulgaria) Act (No. 83) the Treaty of Peace (Finland) Act (No. 82), the Treaty of Peace (Hungary) Act (No. 81), the Treaty of Peace (Italy) Act (No. 79) and the Treaty of Peace (Roumania) Act (No. 80) approve Treaties of Peace with Bulgaria, Finland, Hungary, Italy and Roumania respectively and confer power to make regulations to give effect to the treaties. The United Nations Educational, Scientific and Cultural Organisation Act (No. 24) approves the Constitution of the United Nations Educational, Scientific and Cultural Organisation agreed

upon in London on November 16, 1945. The World Health Organisation Act (No. 93) gives approval to Australia becoming a member of the World Health Organisation to the acceptance by Australia of the Arrangement establishing an interim Commission of the World Health Organisation.

Gold.—The Gold Tax Suspension Act (No. 58) suspends, until a proclaimed date, the tax imposed by the Gold Tax Act 1939 in respect of gold delivered on or after September 20, 1947, in accordance with s. 32 of the Banking Act, 1945.

Hospitals.—The Hospital Benefits Act (No. 34) amends the Hospital Benefits Act, 1945, to enable regulations to be made for the purpose of prescribing payments by the Commonwealth of hospital benefits in respect of persons who are ordinarily resident in Australia but are temporarily absent.

Housing.—The Loan (Housing) Act (No. 66) authorises the Treasurer to borrow £13,000,000 to be issued and applied for making advances to the States for the purpose of housing in pursuance of the agreement the execution of which is authorised by the Commonwealth and State Housing Agreement Act, 1945.

Industrial Arbitration.—The Commonwealth Conciliation and Arbitration Act (No. 10) makes extensive amendments to the Commonwealth Conciliation and Arbitration Act, 1904 - 1946. The Act provides for the appointment of Conciliation Commissioners who are to have similar tenure to that applicable to officers in the Commonwealth Public Service, namely, until attaining the age of 65 years. Provision is made for the division of arbitral functions between the Court and Commissioners. The Court may, for preventing or settling an industrial dispute, make an order or award altering standard hours, the basic wage, annual leave and minimum rates for adult females. Conciliation Commissioners may not make an order or award effecting any such alteration but otherwise are required to take steps for the prevention or settlement of industrial disputes. An award or order of a Conciliation Commissioner is not to be challenged or questioned in any Court on any account whatever. The Court or a Conciliation Commissioner may declare that any term of an order or award shall be a common rule of any industry. The Act establishes the Office of Economic and Industrial Research the functions of which are to collect and compile information for the assistance of the Court and the Commissioners and to carry out research in respect of such matters as the Chief Judge directs. The Act contains numerous other amendments in matters of detail.

Interim Forces.—The Interim Forces Benefits Act (No. 46) is an Act to provide certain benefits for members of the Interim Forces by reason of their service with such Forces. A member of the Interim Forces is defined as meaning a person who, after June 30, 1947, and prior to a date fixed by the Minister, enlists or engages in the naval, military or air forces for a term not exceeding two years. The Act makes provision in respect of leave on discharge and pensions as applicable to members of such Forces.

Ministers of State.—The Ministers of State Act (No. 68) increases the aggregate amount, payable as salaries of Ministers of State, from £22,250 to £27,650.

New Zealand.—The New Zealand Re-exports Act (No. 55) amends the New Zealand Re-exports Act, 1924, by deleting a provision which requires that in the calculation of the value for duty of goods, ten per centum of the value of goods is to be added.

Parliament.—The Parliamentary Allowances Act (No. 36) increases the parliamentary allowance payable to each Senator and Member of the House of Representatives from £1,000 to £1,500. Increases are also made in the allowances payable to the Leaders of the Opposition in the two Houses of the Parliament. The Parliamentary Allowances Act (No. 2) (No. 64) grants an allowance of £400 a year to the Leader in the House of Representatives of a recognised political party of not less than ten members. The Commonwealth Public Works Committee Act (No. 69) grants increases in the travelling expenses of members of the Commonwealth Public Works Committee.

Pharmaceutical Benefits.—The Pharmaceutical Benefits Act (No. 33) revises and restates the law relating to the supply of pharmaceutical benefits. It repeals the Pharmaceutical Benefits Acts of 1944 and 1945. The conditions under which free medicines may be provided are subjected to a variation in certain details. Provision is now made relating to friendly society dispensaries which are approved as pharmaceutical chemists for the purposes of the Act. Medical practitioners may now be approved for the purpose of supplying pharmaceutical benefits in districts where there is no approved chemist. Generally the Act repeats, with certain alterations in detail, the provisions of the Acts which it supersedes.

Public Service.—The Commonwealth Public Service Act (No. 1) provides for the transfer to the Commonwealth Public Service of certain employees of the Repatriation Commission and of the War Service Homes Commission. The Commonwealth Public Service Act (No. 2) (No. 84) makes certain amendments to the law regulating the Commonwealth Public Service. The principal of the amendments is one which gives a right of appeal to temporary employees whose services have been dispensed with on the ground of misconduct. The Superannuation Act (No. 35) makes extensive alteration in the Superannuation Act 1922 - 1947. It increases by 25 per centum the value of pensions and payments to Provident Account contributors. It also provides for an increase of the maximum amount of pension, the number of units of pension being now 26 instead of 16, so that the maximum pension which may be received is increased from £416 per annum to £845 per annum. The Commonwealth's contribution to the cost of each pension is increased from one-half to three-fifths of the pension payable. Facilities are provided enabling a contributor to contribute, if he so desires, for units of pension in excess of those for which he is entitled to contribute in accordance with his salary. Such units are described as "Reserve Units" and the contributor becomes entitled to include those units for pension purposes when his salary is increased so as to enable him to contribute for a higher pension. If reserve units are not taken into account for pension purposes (either by reason of the salary of the contributor not reaching, during his service, an amount justifying these units so being taken into account or because the contributor elects to discontinue contributing for the reserve units) his contributions are refunded with compound interest. A further provision enables a contributor, who remains in the Service after attaining the maximum age for retirement, to be entitled to a percentage increase of pension in accordance with the additional years of service beyond that age.

Quarantine.—The Quarantine Act (No. 19) amends the Quarantine Act 1908 - 1924 to authorise the prohibition of the bringing into Australia of any animals. It will also enable a quarantine officer to destroy any animals where the prescribed conditions relating to control or confinement are not complied with. Power is also conferred on a quarantine officer to order into quarantine any person who fails to satisfy him that he has been successfully vaccinated or inoculated against any prescribed disease. The Quarantine Act (No. 2) (No. 92) makes further amendments to the Quarantine Act. The Governor-General is empowered to declare, by proclamation, the existence of an epidemic caused by a quarantinable disease in the Commonwealth, and thereupon the Minister may give such directions and take such action to control the epidemic as he thinks necessary. The Act also authorises the Minister to take such measures as he thinks necessary or desirable for the diagnosis, prevention and treatment of any quarantinable disease. Other provisions of the Act prohibit the entry into Australia of aircraft coming from or through a place outside Australia declared by the Governor-General to be a place from which diseases might be introduced.

Repatriation.—The Australian Soldiers' Repatriation Act (No. 29) increases the pensions of certain classes of ex-members of the Forces by 5/- per week. Other amendments of the existing law are also made including one affecting the method of computing the net capital value of accumulated property for the

purposes of determining qualification for a service pension. The Australian Soldiers' Repatriation Act (No. 2) (No. 74) contains a provision enabling regulations to be made relating to the establishment of patriotic funds, the raising of moneys and acquiring of assets for patriotic funds, the control and distribution of such moneys and assets and the winding-up of patriotic funds and disposal of the assets and moneys of such funds. The control of patriotic funds has heretofore been dealt with by regulations under the National Security Act. The present Act will give permanent authority for such control as may be necessary in the future.

Roads.—The Commonwealth Aid Roads and Works Act (No. 17) provides for the grant, by way of financial assistance to the States of sums to be applied in the construction, reconstruction, maintenance and repair of roads and works connected with transport. Expenditure is authorised for the construction and maintenance of strategic roads and roads of access to Commonwealth property and also for the promotion of road safety practices throughout Australia. The amount of the grant is calculated by reference to the collections of customs and excise duties on petrol and like products.

Royal Style and Titles.—The Royal Style and Titles Act (Australia) (No. 70) declares the assent of the Parliament to the omission from the Royal Style and Titles of the words " Indiae Imperator " and the words " Emperor of India."

Salaries of Statutory Offices.—The Salaries (Statutory Offices) Adjustment Act (No. 52) increases the salaries of the holders of certain statutory offices. These are the Justices of the High Court, the Judges of other Courts created by the Parliament, the Public Service Arbitrator, the Chairman and other members of the Public Service Board, the Commissioner and Assistant Commissioner of Land Tax, the Auditor General and the Chairman and other members of the Tariff Board.

Seamen's Compensation.—The Seamen's Compensation Act (No. 18) makes a number of amendments of the Seamen's Compensation Act, 1911 - 1938. Compensation is now obtainable in respect of personal injury by accident caused to a seaman travelling to and from work. A seaman who habitually uses his left hand and arm may now recover the compensation payable in respect of injury to the right arm. The amount of compensation payable in respect of death is increased from £750 to £800, plus a payment of £25 for each dependent child under 16 years of age. The maximum amount of compensation payable in respect of personal injury caused by any one accident is increased to £1,000.

Services Trust Funds.—The Services Trust Funds Act (No. 23) is an Act to establish, from the profits and other assets of canteens conducted during the time of war, trust funds to be administered in the interests of service men, ex-service men and their dependants. The Governor-General is empowered to appoint trustees of each fund and the trustees may make payments or grant benefits from the funds to or on behalf of any beneficiary or group or class of beneficiaries. The Act establishes a Services Canteens Trust Fund, which is a Central fund, benefits from which are to be available to members and ex-members of the naval, military and air arms of the Defence Forces. The other funds established are the Royal Australian Navy Relief Trust Fund, the Australian Military Forces Relief Trust Fund and the Royal Air Force Welfare Trust Fund. They preserve the principle of separate funds for each service. A person may not have recourse to the benefits of these funds if a benefit of the type sought is available to him from the central fund.

Social Services.—The Social Services Consolidation Act (No. 26) amends and consolidates the law relating to the payment of old-age pensions, invalid pensions, widows' pensions, maternity allowances, child endowment, unemployment and sickness benefits. The new Act repeals the Invalid and Old-Age Pensions Act, the Widows' Pensions Act, the Maternity Allowance Act, the Child Endowment Act and the Unemployment and Sickness Benefits Act and re-enacts provisions

similar in effect to the repealed Acts. The Act constitutes the office of Director-General of Social Services and provides that in each State there shall be a Director of Social Services. The Director-General is to have the general administration of the Act. The Act increases the amount of invalid and age pensions by 5/- per week to £1 17s. 6d. per week. An increase of 5/- per week is also payable to widows of all classes. The Act provides that payment to invalid pensioners or unemployment and sickness beneficiaries may be made subject to the pensioner or beneficiary undergoing vocational training or treatment. The Social Services Contribution Act (No. 13) reduces the rates of social service contributions. The Social Services Legislation Declaratory Act (No. 27) declares that the provisions of certain Acts have full force and effect. These Acts are the Maternity Allowance Act 1912 - 1944, the Widows' Pensions Act 1942 - 1946, the Child Endowment Act 1941 - 1945, the Unemployment and Sickness Benefits Act 1944, the Hospital Benefits Act 1945, the Education Act, 1945, the Invalid and Old-Age Pensions Act 1908 - 1946 (Part IVA) and certain parts of the Re-establishment and employment Act 1945. The validity of these Acts was in doubt until the Constitution was amended by the Constitution Alteration (Social Services) Act of 1946 (No. 81 of 1946).

Spirits.—The Spirits Act (No. 87) amends the Spirits Act 1906 - 1935 to permit methylated spirits being used in some medicines for external application.

Stevedoring Industry.—The Stevedoring Industry Act (No. 2) is an Act to provide for the prevention or settlement of industrial disputes in connection with stevedoring operations, to regulate industrial matters in connection with stevedoring operations and to provide for the establishment of a Stevedoring Industry Commission. The Stevedoring Industry Commission is to consist of a Chairman, an officer of the Commonwealth and four other members of whom one represents overseas shipowners, one represents Australian shipowners and two represent the Waterside Workers' Federation of Australia. The Chairman is to be a judge of the Commonwealth Court of Conciliation and Arbitration or a Conciliation Commissioner. The functions of the Commission are to prevent or settle industrial disputes in connection with stevedoring operations and to regulate industrial matters in connection with stevedoring operations. The Commission has power to make awards and orders with respect to wages, hours and conditions of employment of waterside workers, and other matters. The Commission may, in respect of any port, establish and maintain a register of employers and a register of waterside workers at that port. Tokens of registration are to be issued to employers and waterside workers. Unregistered employers are not to engage persons for employment as waterside workers, and unregistered persons are not to be employed as waterside workers. The Minister is authorised to appoint Waterside Employment Committees which may exercise such powers and functions as the Commission assigns to it. The Commission is to receive such amounts as are equivalent to the amounts raised under the Stevedoring Industry Charge Act 1947. The Stevedoring Industry Charge Act (No. 4) imposes a charge in respect of the employment of waterside workers. The rate of charge is 4½d. per every man-hour of employment and is to be paid by the employer of the waterside worker. The Stevedoring Industry Charge Assessment Act (No. 3) is a machinery Act relating to the imposition, assessment and collection of a charge in respect of the employment of waterside workers. The Commissioner of Taxation is to have the general administration of the Act. The Act requires every employer to render a return of the man-hours of employment of waterside workers. The Commission may sue for the charge in any court of competent jurisdiction.

Sugar.—The Sugar Agreement Act (No. 61) approves an agreement between the Commonwealth of Australia and the State of Queensland to amend the existing agreement which was approved in 1946 (see Act No. 11 of that year).

Taxation: (i) *Estate Duty*.—The Estate Duty Assessment Act (No. 16) makes

various amendments in the law relating to assessments for the purposes of estate duty (Estate Duty Assessment Act 1914 - 1942). Among other things the Act exempts from duty all gifts *inter vivos* of amounts not exceeding £50 in value. It also provides for deductions in the cases of ex-members of the Forces who have died within three years after the termination of the war. A further provision modifies the law with respect to deductions in respect of Federal and State income taxes and land taxes.

(ii) *Gift Duty*.—The Gift Duty Act (No. 15) amends the Gift Duty Act, 1941, by inserting a provision under which gift duty is not to exceed one-half of the amount by which the value of the gift exceeds £2,000. The Gift Duty Assessment Act (No. 14) makes machinery amendment to the Gift Duty Assessment Act 1941 - 1942 including an alteration to increase the amount of gifts which will be exempt from taxation.

(iii) *Income Tax*.—The Income Tax Act (No. 12). The first Schedules set out the rates of tax per £1 in respect of ranges of taxable income from personal exertion up to £1,000, between £1,000 and £2,500, between £2,500 and £5,000, and in excess of £5,000. The second Schedules deal with income from property by applying specified rates of tax per £1 in respect of similar ranges of income with the difference that the first variant occurs when the income exceeds £500. The rate of tax payable by a company is 72 pence in the £1 in the case of a company which is not a life assurance company, and 60 pence per £1 in case of mutual life assurance company. In the case of a life assurance company other than a mutual company the rate per £1 varies between 60 pence and 72 pence according to the nature of the income. The Income Tax Assessment Act (No. 11) makes extensive amendments to the Income Tax Assessment Act 1936 - 1946. These relate to the taxation of ex-Australian dividends and to tax paid abroad on ex-Australian dividends. Expenditure incurred by a taxpayer on exploration or prospecting for ore (other than gold, coal or petroleum) is made an allowable deduction. The principal amendments made by the Act give effect to an agreement signed in London on October 29, 1946, and made between the Government of the United Kingdom and the Government of the Commonwealth of Australia for the avoidance of double taxation and the prevention of local evasion with respect to taxes on income. The Income Tax Assessment Act (No. 2) (No. 63) further amends the Income Tax Assessment Act by providing for deductions in the case of tax-payers who serve as members of the Defence Forces at an overseas locality. Certain amounts received by friendly society dispensaries will be taxable income. Changes are also made in the system of collecting income tax and social services contributions by instalments.

(iv) *Sales Tax*.—The Sales Tax (Exemptions and Classifications Act (No. 65)) makes a number of alterations in the details of the Schedules to the Sales Tax (Exemptions and Classifications Act, 1935 - 1946).

(v) *War-time (Company) Tax*.—The War-time (Company) Tax Act (No. 60) makes an amendment to the War-time (Company) Tax Act, 1940 - 1941, which will ensure that the tax imposed by the Act will terminate with assessments for the financial year which began on July 1, 1946. The War-time (Company) Tax Assessment Act (No. 59) makes a corresponding provision in respect of assessments of the tax in question.

Territories.—The Northern Territory (Administration) Act (No. 39) amends the Northern Territory (Administration) Act 1910 - 1947 to provide for a Legislative Council for the Northern Territory. The Council is to consist of the Administrator, seven official members and six elected members. Official members are appointed by the Governor-General and hold office during pleasure. Elected members will hold office for three years. The Council is empowered to make Ordinances for the peace, order and good government of the Territory. Ordinances, before becoming effective, require the assent of the Administrator

or, if reserved for the Governor-General's pleasure, the assent of the Governor-General.

Tradesmen's Rights.—The Tradesmen's Rights Regulation Act (No. 72). The Act constitutes a Central (Boot Trades) Committee consisting of a representative of the Minister who is the Chairman and two representatives of employers and two representatives of employees. A Local (Boot Trades) Committee is also set up in each State. The purposes of the organization established by the Act is to provide means of determining those persons who are entitled to be regarded as recognised or probationary tradesmen in respect of the various trades associated with the boot manufacturing industry. The Tradesmen's Rights Regulation Act of 1946 dealt similarly with a number of other trades. The legislation now under consideration supersedes certain regulations made under the National Security Act which provided for the temporary relaxation of certain customs favourable to recognised tradesmen. The present Act is incorporated in the Act of 1946, and the restrictions on employers (contained in s. 43 of that Act) against the employment of other than a recognised or probabationary tradesman now apply in respect of employers in the boot trade.

Trading with the Enemy.—The Trading with the Enemy Act (No. 75) amends the Trading with the Enemy Act, 1939 - 1940. It makes permanent provision for dealing with the property of enemy subjects. The matter was covered by regulations made under the National Security Act. Those regulations are now declared to be in force by virtue of the new Act and power is taken to amend or repeal those regulations.

United Kingdom Grant.—The United Kingdom Grant Act (No. 28) grants a sum of £25,000,000 to His Majesty's Government in the United Kingdom as a contribution towards war expenditure incurred by it in respect of operations in and around the Pacific.

University.—The Australian National University Act (No. 21) amends the Australian National University Act, 1946, in relation to the power of the Council of the University to make provision for superannuation benefits for salaried teachers and officers of the University and their families. The Australian National University Act (No. 2) (No. 56) makes a further amendment to the Australian National University Act by extending the period of office of the Interim Council.

War Gratuity.—The War Gratuity Act (No. 41) makes some amendments to the War Gratuity Act, 1945. The principal extends the period of service, which is the basis of entitlement to gratuity, to June 30, 1947.

War Service Homes.—The War Service Homes Act (No. 38) amends the War Service Homes Act, 1918 - 1947. It abolishes the position of War Service Homes Commissioner created by the previous legislation and substitutes the office of Director of War Service Homes. The new Act provides that an eligible person and his wife may be treated together jointly as an eligible person. The Act contains provision designed to enable articles or commodities required for the purposes of the Act to be compulsorily acquired. The Act increases the amount of the total cost of a dwelling-house which may be acquired or erected by the Director from £1,250 to £1,750. The War Service Homes Act (No. 2) (No. 71) further amends War Service Homes Act to include among the persons eligible for the benefits of the Act members of the Forces who continued to serve after the cessation of hostilities. The Act makes other variations in entitlement dependent upon the time of enlistment or appointment for service.

2. NEW SOUTH WALES.

[*It is hoped to publish the review in the next issue.*]

3. QUEENSLAND.

[*Contributed by* JOHN SEYMOUR, ESQ., *Acting Parliamentary Draftsman.*]

1946.

Public Accountants Registration—The object of No. 1 is the control and regulation of the profession of a public accountant, that is, of an accountant who places the services in relation to the business of general accountancy and the auditing of accounts at the disposal of the public generally for remuneration.

The measure does not extend to persons employed as accountants, or serving one principal only in that capacity.

A public Accountants Registration Board of four members, under the chairmanship of the State's Auditor General is constituted.

Qualifying standards for applicants seeking registration as public accountants are provided in the Act, with safeguards as respects persons in the profession at the passing of the Act who possess qualifications heretofore recognised as proof of capacity.

Standards of professional conduct are laid down. Unregistered persons are prohibited from acting as auditors of corporations, and from carrying out certain statutory audits.

A Corporation carrying on the business of a public accountant must place that branch of its business under a registered public accountant.

Rosalie School of Arts and Commemoration Hall Transfer Act of 1948.—A private measure passed as a Public Bill, transfers the property and assets of the institution called the Rosalie School of Arts and Commemoration Hall to the Ithaca Sub-Branch of the Returned Sailors, Soldiers and Aimen's Imperial League of Australia.

This hall was established to commemorate residents of Rosalie (a suburb of Brisbane) who served in the First World War.

Sugar Industry.—No. 3 provides for the settlement in the sugar industry of returned service personnel. It gives ex-members of the Forces a preferential right to purchase existing sugar cane farms which come on the market for sale. The intending vendor must advertise his intention to sell, and set out in the advertisement particulars of the farm, the sale price, and the terms and conditions of the sale. The advertisement is not an offer to sell, the farm can be withdrawn, but if an eligible ex-serviceman offers, within six weeks of the advertisement to buy on the advertised terms and conditions, the sale must be made to him, unless the Central Sugar Cane Prices Board otherwise orders.

The Act also provides for the settlement upon new sugar-cane growing lands of returned servicemen. The lands will be assigned by the Central Sugar Cane Prices Board, which is authorised to increase existing sugar mill peaks by three per cent. Ex-service men obtaining these new assignments must personally engage in sugar-cane growing on the assigned land for the period of five years following the grant of the assignment, and during the next five years can only dispose of the farm to another eligible person.

In explanation, it is pointed out that in Queensland sugar industry is controlled by a system of quotas. Firstly, the grower is confined to a quota based on the assignment of a specified area to a particular mill. This limits the quantity of cane which he can grow for the manufacture of cane sugar to cane grown on the land so assigned. Secondly, the sugar mill owner can only obtain the full market price for a defined quota of cane sugar manufactured by him. This is called the mill peak.

Electric Light.—The States of Queensland and New South Wales have agreed to pass reciprocal legislation whereunder an electric authority of the one State can, with the sanction of the other, function also within the latter, or, in other words, supply as it were electricity inter-State. No. 4 implements that agreement.

It also includes the electricity undertaking of the Inkerman Irrigation Authority (Burdekin River delta) in the undertaking of the Townsville Regional Electric Authority.

Economic Stability.—No. 5 is complementary to the Defence (Transitional Provision) Act, 1946, of the Commonwealth. It provides that certain Commonwealth National Security Regulations may at any time be proclaimed in force as State Laws. Such regulations are the Prices, Landlord and Tenant, Capital Issues, and (to the extent to which they apply to transfers of property) Economic Organisation.

As Commonwealth law these regulations rely for their validity on the defence powers of the Commonwealth. They are continued for the purpose of securing economic stability during the transitional period from war to peace. The Queensland Act is a reserve power intended to be operated only as respects any of the above regulations which may be successfully attacked in the High Court.

Bread Delivery.—No. 6 requires bakers to make house to house deliveries of bread within the Brisbane Metropolitan area and also within the other cities of the State, with power to extend the obligation to make household deliveries of bread to other urban areas.

A baker is not compelled to deliver more than three miles from his bakehouse, but subject to this limitation, the Act gives the householder a choice of bakers as he can require delivery from any one of the three bakers whose bakehouses are nearest to his residence.

The practice of pooling unidentified bread for delivery is prohibited. Bakers who make pooled deliveries must have every loaf marked with the name of the baker who manufactured it.

Industrial Conciliation and Arbitration.—No. 7 provides for annual and sick leave with pay for employees. So that the Industrial Court can intervene promptly in order to prevent disputes from developing into strikes or lockouts, an amendment requires every matter of dispute or disagreement to be notified in writing to the Court immediately it arises.

Industrial unions are required to keep proper registers of members, a copy of the register of members must be filed in the Industrial Court registry, and a quarterly return keeping the register up to date must also be lodged in that office.

Employers are required to keep registers of employees.

The Industrial Court is empowered to suspend in lieu of deregistering a union.

The Court is empowered to control union ballots.

Members of the Court are given the same paid recreation and sick leave privileges as Judges of the Supreme Court.

Labour and Industry.—No. 8 consolidates in one Act the principal activities previously carried out under "The Bureau of Industry Acts, 1932 to 1943," "The Industries Assistance Acts, 1929 to 1933," "The Employment Exchanges Acts, 1915 to 1941," "The Co-ordination of Employment Facilities Act of 1941," and "The Juvenile Employment Bureau Constitution Act of 1941."

The Bureau of Industry is reconstituted. This Bureau will no longer be a constructing authority. Its functions under the Act will be to maintain a continuous review of industry and employment, to consider the effect of the annual public works programme upon private industry, and employment, to recommend ways and means for the development and decentralisation of industry and employment, and generally to collect and publish information and statistics regarding the economics of the State.

Provision is made for a Division of Secondary Industries charged with promoting the development of secondary industries, their decentralisation, and the establishment of industries to assist in the employment of seasonal workers.

An Industries Assistance Board will deal with the matter of Government assistance to industries, and loans may be made or guarantees given to assist industries.

Sugar Experiment Stations.—No. 9 empowers Cane Pests Boards to subsidise the cost to sugar-cane growers of materials and labour required for the eradication of sugar-cane pests.

Veterinary Surgeons.—No. 10 prohibits unqualified persons from doing professional veterinary surgery for remuneration.

Diseases in Stock.—Greater control over the introduction into Queensland from the Northern Territory of stock travelled on the hoof is given by No. 11 which makes better provision by providing for the establishment of protected areas into or out of which the movements of stock can be controlled and, if necessary, prohibited.

It makes sellers of tubercular stock liable to purchasers, and prohibits sellers from contracting out of this liability.

The provisions of the Principal Act, relating to testing for and destruction of tubercular cattle, are tightened up.

Wheat Industry.—No. 12 implements the scheme agreed upon between the Commonwealth and the States for the stabilisation of the wheat industry for a period of five years, to end with the 1949 - 1950 wheat harvest.

Actually the stabilisation scheme is a Commonwealth one, which, owing to constitutional limitations, cannot be implemented without complementary State legislation. As the major wheat growing States have not carried the necessary legislation, it now appears that this Queensland Act will never be brought into force.

Stock Routes and Rural Lands.—No. 13 authorises the laying of poison and poison baits for the destruction of dingoes from aircraft. It also clarifies the right of entry upon private lands of the Minister and Local Authorities for the purpose of administering the principal Act.

Rural Fires.—No. 14 consolidates and amends the previous laws relating to rural fires. A Rural Fires Board is established to administer the Act. Provisions are made for rural fire districts in charge of fire wardens.

The precautions to be taken by a rural land holder before using fire to clear or burn off his land are specified, as are also the precautions to be taken by users of camp fires.

State forests, national parks, timber reserves, and reserves for scenic purposes, together with adjoining lands within one mile thereof, are declared to be "special fire zones." Owners and occupiers of lands in these zones must keep their lands free from inflammable materials. Special permits must be obtained to light open air fires, and the use of inflammable articles such as wax matches is controlled.

The Minister is given power to declare a state of fire emergency in a specified district and to require special precautions against uncontrolled rural fires to be taken during the emergency.

There is power to establish bush fire brigades, such brigades to have authority to enter upon lands and to take measures for subduing fire.

Penalties are imposed for wilfully or negligently causing damage by the uncontrolled or improper use of fire on rural lands.

Border Rivers.—No. 15 ratifies an agreement made between the States of Queensland and New South Wales in connection with the use of waters in streams forming part of the boundary between the two States. It covers the setting up of a joint Commission to administer the agreement, the conservation and distribution of the water, the construction of necessary works and the selection of labour for such works.

The basis of the agreement is that of equal partnership in respect of both works expenditure and right to water.

Public Health.—Quantities of terne iron (metal sheets coated with an alloy of tin and lead) have been disposed of to the public as surplus war stocks. No. 16 prohibits the use of terne iron for roofing, guttering or downpipes of dwellings

and other buildings from which rain water is collected for domestic purposes. Its use is also prohibited in walls, partitions and other places where it is accessible to children.

Heavy penalties are prescribed and, in addition, the unlawful use of terne iron is constituted a nuisance under the Health Acts and the Local Government Acts.

The Act also prohibits altogether the use of lead in domestic utensils.

Under the principal Act all boots and shoes, the soles of which do not consist entirely of leather, must have stamped on the outside of the sole a statement of the materials used. No. 17 extends that requirement to leather soles.

Firearms.—No. 18 provides for the control of the possession and use by the public of military type rifles.

Payment of Judges.—The Commonwealth makes an annual payment to the State for distribution among the Supreme Court Judges in respect of their Services in Federal Jurisdiction.

This payment is distributed among the Judges under State legislation, and No. 19 amends that legislation so as to provide a more equitable and clearer basis of distribution, particularly in the case of Acting Judges.

Money Lenders.—No. 20 is a further step in the effort to suppress usury. Dishonest money lenders endeavour to circumvent the statutory limit on interest rates by various methods.

The method prohibited by this amendment was to require the client to obtain and pay an exorbitant fee (£4 on a loan of £20 in an actual case) for a character reference given by a " dummy " of the money-lender.

Co-operative Societies.—Summarised, the object of No. 21 is to encourage co-operative effort in every phase of business, trade and industry.

The Act gives recognition to the following basic principles of the Co-operative Society, namely:—

(1) One member, one vote;

(2) Limitation of the number and value of shares which may be held by any one member;

(3) Limitation of the amount of dividend;

(4) Distribution of the profits derived from the Co-operative's business among those persons who made its success possible by doing business with the Co-operative.

Under the Act a Co-operative Society may be established to undertake any business, trade or industry.

If the Co-operative satisfies the Government that the establishment of its business in any particular centre is a matter of public interest, and that all reasonable efforts by it to secure business premises have failed, the Crown may compulsorily acquire a business site for it.

Provision is made for the amalgamation of Co-operative Societies, for the transfer by one Society of its business to another, and for the establishment by two or more Societies of a separate Co-operative for the purpose of carrying on a business for their benefit.

The Act does not affect Primary Producers Co-operative Association, but allows any such Association to become a member of a Co-operative Society, and also permits a Co-operative to hold shares in an Association.

The Act also provides that a Primary Producers Co-operative Association and a Co-operative Society can jointly establish a separate Co-operative under the Act, for the purposes of carrying on a business for their mutual advantage.

Companies are allowed to convert themselves into Co-operatives, and a Co-operative can convert to a Company, excepting that any Co-operative for which land has been compulsorily acquired cannot subsequently transpose itself into a Company.

A Co-operative must be formed with limited liability. Subject to its rules, all persons of or over sixteen years of age are eligible for membership. The maximum individual shareholding is £300. A member is entitled to one vote only, excepting that where a Society is formed of two or more Co-operatives, a component Society is entitled to an extra vote if the business done by it with the Society of which it is a member is not less than double the average of the business done by each of the component Societies.

A minimum of seven members is required to form a Co-operative Society.

The maximum dividend rate is not to exceed two per cent (2%) above the prevailing rate of interest on Commonwealth loans.

A capital reserve fund must be established and an annual payment, equivalent to five per cent (5%) at least of the year's profits, paid to this fund.

Annual profits may be distributed by way of bonuses or rebates on business done with the Society. In the case of non-members, these bonuses and rebates are to be accumulated by the Society until the amount equals the minimum shareholding, when shares of that value are to be issued.

A Society is authorised to retain, as a loan from the person entitled thereto, the amount of any dividend, rebate or bonus.

A Society is empowered to buy any member's shares but so that the aggregate value of all shares purchased in any one year shall not exceed one-twentieth of the paid-up capital.

Notarial Powers.—No. 22 authorises officers in the diplomatic service of the Commonwealth of Australia to perform out of Australia notarial acts and other matters and things for the purpose of any court or matter in Queensland.

Cash Orders and Hire Purchase Agreements.—Cash order businesses are regulated and controlled by No. 23 requiring cash order traders to carry on business under the authority of a licence and from an office specified in the licence. Canvassing for, and advertisements and circulars inviting the public to apply for, cash orders are prohibited.

A maximum rate of interest on a cash order is fixed at 9d. in the £1, and the maximum period of a cash order is to be twenty (20) weeks. Maximum discount allowable to a cash order trader is fixed at ten per cent (10%) if the order is redeemed with fourteen (14) days after the end of the month in which it was presented for redemption, and at five per cent (5%) in all other cases.

A husband is not legally liable for a cash order or cash loan issued to his wife unless he consented in writing before the order or loan was made.

As respects hire purchase agreements, the Act empowers the fixation of minimum deposits and maximum periods of hiring. It also stipulates that hire purchase agreements must provide for payment in equal instalments at equal intervals of time, except in the case of agricultural implements.

The statutory provision in the Sale of Goods Acts enacting that there is an implied condition as to quality of fitness when the buyer makes known to the seller the purpose for which he is buying, under circumstances showing that the buyer is relying on the seller's skill and judgment, and the goods bought are of a description supplied by the seller in the course of his business is extended to goods supplied under hire purchase, and contracting out by the supplier is prohibited.

State Transport Facilities.—No. 29 consolidates and amends existing legislation with respect to the carriage of the public and their goods by road.

It will be administered by a single Commissioner, and provision is made for the administrative decentralisation by the setting up of District Transport Officers in important centres throught the State.

The Act provides for a new principle of controlling road transport. Previous legislation controlled the vehicle but this new Act regulates the service provided by the operator and deals with the vehicle only as an incident of that service.

Provisions are made for licensing services for the carriage of passengers, or of goods, or of both passengers and goods, by road.

Public applications must be invited for all new services established under the Act. The licence will go to the applicant who is prepared to supply the service deemed most advantageous to the public, and, subject to public advantage, preference is to be given to Local Authorities and Crown instrumentalities.

Provisions of the Act covering compensation are designed to prevent the over-capitalisation of transport services by excessive goodwill values.

Licensing fees will be assessable by the Commissioner, the maximum fee for a passenger vehicle being 1d. per passenger per mile, and for a goods vehicle 3d. per ton per road mile.

Licensing fees may be based on:—(i) A fixed sum; (ii) A percentage of the gross revenue derived from the service; (iii) A fixed sum for each vehicle; (iv) A rate per passenger per mile, and per ton of goods per road mile, based on either the carrying capacity of the vehicles used in carrying on the service, or on the actual number of passengers and tonnage of goods carried.

The Commissioner for Transport is authorised to bring the carriage of passengers and goods by water within the coastal waters of the State, or by air from place to place within the State, under the licensing provisions of the Act.

Housing.—No. 30 authorises the Housing Commission to pay for individual houses erected by a contractor under a group contract. Each house in the group may be paid for upon completion subject to the Commission being satisfied that the contractor has met, in respect of that house, his liabilities under the Contractors and Workmen's Lien Acts.

The object of the measure is to obviate the retention of 25% of the whole contract price until the completion in full of the group contract, as the retention of this sum would mean that only contractors with substantial financial backing could build for the Commission.

No. 31 reduces to £3 15s. 0d. per centum per annum the rate of interest payable by borrowers and purchasers of homes to the Crown.

Gas.—No. 34 provides for the more adequate testing of the heating power purity and pressure of gas. It also prohibits a practice whereunder landlords take the supply and retail at a profit to their tenants. This evil showed a tendency to increase in working-class areas. In future it will be an offence for any person to demand or accept from the actual consumer more than the minimum amount due to the supplier. Moreover, demand or acceptance of payment before delivery of a proper account showing consumption and allowable rebates and discounts is prohibited.

Thursday Island.—During the war all civilians were evacuated from Thursday Island and the military authorities assumed the civil government, including the functions of the Local Authority. Civilians are now returning to Thursday Island but not at the passing of this Act in sufficient numbers to enable the re-establishment of the Local Authority.

No. 36 confers the powers and function of the Thursday Island Local Authority upon the Director of Local Government for the time being, with power to the Governor in Council to restore proper Local Government as soon as practicable.

Criminal Law.—No. 37 has resulted from experience gained in the administration of the special legislation relating to sexual offences passed in 1945.

The measure defines an " offence of a sexual nature " as an offence committed by means of an act or having associated circumstances exhibiting a failure by the offender to exercise proper control over his sexual instincts.

For the purposes of summary punishment offences of a sexual nature as defined, and assaults on children under seventeen, females and male children under fourteen are constituted " aggravated assaults."

A sexual offender is given the right of appeal against an indeterminate sentence,

and the Crown an appeal against the refusal of the trial Judge to impose that sentence.

The principle that a female under seventeen cannot consent to an act which is a sexual offence against her is extended to males under seventeen.

Irrigation and Water Supply.—No. 39 sets up a Department of Irrigation and Water Supply under a Commissioner of Irrigation and Water Supply, as a separate department of government. Formerly irrigation and water supply was a sub-department activity of the Lands Department.

4. SOUTH AUSTRALIA.

[*Contributed by* E. L. Bean, Esq., C.M.G., *Parliamentary Draftsman.*]

In the year 1947 the Parliament of South Australia passed 52 Acts, of which the following are the more important:—

Advances for Houses.—No. 13 provides that the maximum amount of any loan which may be made by the State Bank of South Australia to finance the purchase or building of a dwelling house shall be increased from £1,000 to £1,250. It also repeals the section in the principal Act which limits the making of advances to persons in receipt of incomes not exceeding £600 a year.

Bakehouses Registration.—No. 43 provides that the Central Board of Health shall exercise supervision over the administration of the principal Act by local boards of health, and enables regulations to be made providing for an appeal to the Central Board from decisions of local boards.

Barley Marketing.—No. 47 provides for the establishment of a board for the marketing of barley. The board will, if possible, be established pursuant to the terms of an arrangement to be entered into between the Governments of South Australia and Victoria; but if it should not prove possible to have a two-State board the Act empowers the Government of South Australia to establish a board for South Australia only. Growers of barley are compelled to deliver their barley to the board. The Act applies only to barley grown in the season 1948 - 1949 and the four following seasons and will not come into force unless a poll of growers indicates that the majority of the growers favour the scheme. (The Act is now in operation with a joint board for Victoria and South Australia.)

Births and Deaths Registration —No. 44 requires every person who registers a birth or death to complete an " information statement " containing the prescribed particulars for use by the Registrar in effecting registration. It also provides that undertakers are to give to the Registrar particulars of burials and cremations. These particulars must be included in the death certificate. The Act defines the powers of the principal Registrar to correct or alter registers of births and deaths.

Building Materials.—No. 21 extends the operation of the principal Act until November 1, 1948. It provides for the control of certain building materials not previously controlled—namely, certain asbestos sheets, reinforcing rods and floor boards, and places further restrictions on the sale and use of building materials. It prohibits the demolition of dwelling houses except under permit or order of a local board of health. It also provides that complaints for offences may be laid within 12 months after their commission, the usual period being six months.

Coal.—No. 27 provides for the establishment of a Coal Committee of five persons and empowers the Minister, after consultation with the Committee, to make orders requiring any person to sell, lend, deliver or transport coal to any other person or generally regulating the sale, purchase, distribution, transport, consumption and use of coal.

The Act also empowers the Governor to make orders regulating and restricting the consumption of gas or electricity. These orders will be made after consultation with the appropriate authority, that is to say, either the South Australian Gas

Company or the Electricity Trust of South Australia. A contravention of any order is an offence punishable by a fine.

Collections for Charitable Purposes.—No. 18 provides that money collected for war charities, which is no longer required for the purposes for which it was collected, may be applied to any other purpose, whether charitable or not, if that purpose is approved by resolution of both Houses of Parliament.

Constitution.—The Constitution Act provided that a member of either House of Parliament should automatically lose his seat if he were absent without leave of the House from the sittings of the House for one month consecutively. Owing to difficulties in interpreting this provisions Act No. 19 provides that a member's seat will become vacant if he is absent without leave for twelve sitting days consecutively.

The Act also increases the annual vote for Ministers' salaries from £7,750 to £10,750; and the amount of revenue which the Governor may appropriate for the public service in anticipation of Parliamentary approval is raised from £250,000 to £400,000 a year.

Education.—No. 28 provides that a teacher in a Government school, if authorised by the head of the Church to which he belongs, may give religious instruction in that school on behalf of the Church.

Evidence.—No. 5 provides that affidavits and other similar documents required for use in South Australia may be taken or attested out of the Commonwealth before Australian diplomatic and consular representatives.

Fruit Fly.—No. 8 provides that persons whose fruit and vegetables have been destroyed by the Government in order to eradicate the Mediterranean and Queensland Fruit Fly shall be entitled to compensation. The compensation will be assessed by a committee. Any right of action which a person may have against the Government for negligence is preserved.

Piloting.—No. 17 provides that ships trading between ports in the Commonwealth and ports in New Zealand will not be subject to the compulsory pilotage provisions of the Harbours Act and the Marine Act.

Health.—No. 48 makes it an offence to keep a dead body or still born child on any premises for more than seven days unless the consent of a medical officer of health is obtained. The Act authorises a medical officer of health to order the burial of a dead body or still-born child if its presence is or is likely to cause an offensive condition. It also provides for the licensing of rest homes by local boards of health.

Holidays.—No. 6 authorises the Government to proclaim bank half holidays and declares that a day on which a bank half holiday occurs shall, for the purpose of making payments, be regarded as a whole holiday.

Homes.—No. 9 provides that the maximum amount which may be lent by financial institutions under Government guarantee for the purpose of enabling persons to buy or build homes shall be increased from £1,000 to £1,250. The maximum interest chargeable on a guaranteed loan is reduced from 5 per cent. to 4½ per cent.

Impounding.—No. 10 provides that impounding advertisements need not be published in the Government Gazette and that cattle upon streets and roads for depasturing purposes only may, although in charge of some person, be deemed to be at large within the meaning of the section which forbids the owner of cattle to permit them to be at large.

Industrial Code.—No. 49 prescribes a retiring age of sixty-five for the President and Deputy-President of the State Industrial Court. Formerly the President held his office for a term of seven years and a Deputy President for five years. The Act also provides for pensions for the President and Deputy President up to half salary for fifteen years' service, but they must contribute for those pensions at the rate of four per cent of their salary per annum.

The salary of the President is increased from £1,500 a year to £2,000, and

that of the Deputy President from £1,200 to £1,400. Pensions, however, are to be based on the old rates of salary.

Industries Development.—The principal Act provided that the Government could guarantee loans to persons engaging in industries. The borrower had to pay the Government a commission for the guarantee unless exempted. Act No. 50 provides that the exemption may apply to the commission payable in respect of the whole or any part of the guaranteed loan and may be permanent or limited in time and may be subject to any other limitations or restrictions. The Act also provides that on the recommendation of the Industries Development Committee the Government may make loans to any person for the purpose of enabling him to produce or increase the production of building materials.

Control of Rents.—No. 30 extends to December 31, 1948, the operation of the Landlord and Tenant (Control of Rents) Act, 1942, under which rents are controlled in South Australia. It also extends rent control to caravans used as places of habitation.

War Service Land Settlement.—No. 36 empowers the Minister of Lands to buy, breed and sell livestock and to sell wool, skins, hide, milk and other products of livestock so far as is necessary to build up herds and flocks for the purpose of war service land settlement.

Local Courts.—No. 45 reduces the rate of interest on unsatisfied judgments of local courts from 8 per cent to 5 per cent. It provides that persons committed to gaol by a local court may be imprisoned in any gaol and not necessarily the gaol mentioned in the warrant. It also contains provisions requiring plaintiffs to pay in advance the costs of arresting absconding debtors, and re-enacts with minor and drafting amendments the provisions of the principal Act relating to those debtors.

Lottery and Gaming.—Under the Lottery and Gaming laws no licence as a bookmaker or bookmaker's clerk could formerly be issued to any person who held a liquor licence or was employed in any capacity by the holder of a liquor licence. Act No. 37 provides that an employee of the holder of a liquor licence may hold a bookmaker's or bookmaker's clerk's licence as long as he is not actually employed in the retail sale of liquor or in premises in which liquor is sold by retail.

Minister of Lands Incorporation.—No. 22 creates the Minister of Lands a body corporate.

Pharmacy.—No. 38 provides that friendly societies are not to increase the number of shops in which they sell pharmaceutical goods by retail to the general public. They can, however, open new shops for trade with their own members only.

Police Pensions.—No. 23 increases both existing and future police pensions by approximately 25 per cent.

The contributions of members of the Police Force to the pension fund are increased by the same percentage.

The Act also provides that part of the pension available to members of the Force retiring at age 60 will be paid as a lump sum. A member of the Force on retirement will receive a cash payment of £1,050, being the value of a pension of £2 a week, and the balance of the pension, £3 a week, will be paid in monthly instalments, as formerly.

Public Pensions.—No. 11 provides that discounts, flotation expenses and other costs of raising public loans may be paid either out of loan money or General Revenue, according as Parliament may provide. The law formerly was that these costs had to be paid out of loan money.

Public Service.—No. 46 enables the Government to give temporary employment to persons who have retired from the Government service upon reaching the statutory retiring age, *i.e.* sixty-five. No person, however, can be employed under the Act after the end of 1952.

Recreation Grounds.—No. 39 empowers the Minister of Education to enter into agreements with municipal and district councils for the purchase and improvement of land to be used for the dual purpose of a school playground and a public recreation ground.

Road Traffic.—No. 3 extends until August 31, 1948, the reduction of 25 per cent in motor registration fees which was first made during the war.

No. 40 provides that motor vehicles used by ex-service men who are totally and permanently incapacitated or are blind or have lost a leg or foot or receive a full pension by reason of impairment of their powers of locomotion will be registered at half fee.

Savings Bank.—No. 31 enables the Savings Bank of South Australia to lend money on overdraft to municipal and district councils, increases the limit of deposits of ordinary depositors from £1,000 to £2,000, and provides that deposits of charitable trust funds may be made without limit of amount. Provides that societies of all kinds (other than trading bodies) may become depositors. Enables the Bank to pay interest on accounts not operated on for over seven years.

Soil Conservation.—No. 32 forbids the destruction of vegetation on scrub land without prior notice to the Soil Conservator, and repeals existing provisions restricting the cutting of trees on roads.

South Australian Housing Trust.—No. 7 provides that although the South Australian Housing Trust is an instrumentality of the Crown, it shall be subject to the same liabilities and have the same rights under the Fences Act, 1924 - 1926, as any other occupier of land and thus will pay or, as the case may require, receive payment of contributions towards the cost of dividing fences.

Drainage.—No. 25 provides for the further control of private drains constructed in the South Eastern portion of the State and empowers the Government to order or effect the removal of private drains which have been illegally constructed, or which impair the Government's drainage system.

Statutory Salaries.—No. 42 empowers the Governor to make regulations varying the amount and conditions of fees and remuneration payable under Statute to members of statutory boards and committees.

Supreme Court.—No. 33 increases the salary of the Chief Justice from £2,500 to £3,000 a year and the salaries of puisne judges from £2,000 to £2,500 a year. Pensions of Judges, however, will be based upon their salaries prior to the increase.

Venereal Diseases.—No. 51 repeals the Venereal Diseases Act, 1920 (which had never been proclaimed to come into operation) and enacts provisions for the treatment and control of venereal disease similar to the National Security regulations which were in force as a defence measure during the war.

If satisfied that a person is suffering from venereal disease the Chairman of the Central Board of Health may order him to present himself for examination. The person ordered must either present himself for examination, or produce a statement that he has been examined by a medical practitioner and is either free from the disease or is undergoing treatment. A person failing to comply with an order may be apprehended. If examination discloses that a person is suffering from venereal disease, he may be detained for treatment. Provision is made for periodical examination of detained persons.

The treatment of venereal disease by persons other than medical practitioners is prohibited, and it is an offence to communicate the disease to any person.

Workmen's Compensation.—No. 52 provides for increased compensation for injured workmen. The principal Act applied only to workmen receiving under £10 a week. By Act No. 52 the principal Act is extended to workmen receiving up to £15 a week. The maximum compensation on death is increased from £750 to £900, plus £50 for each dependent child, and the minimum amount payable on death to total dependents is increased from £400 to £500, plus £50 for each dependent child.

The weekly payments during total incapacity are increased from half the average weekly earnings to two-thirds, and the maximum compensation for incapacity from £800 to £1,150. The medical expenses payable to an injured workman are increased from £25 to £35. The obligation of a workman to elect between his right of action at common law and his right to workmen's compensation for an injury is abolished, and the workman is permitted to pursue his remedies concurrently but can only obtain judgment in one set of proceedings. The Governor is empowered to make regulations prescribing the premiums which may be charged for insurance against the liability to pay workmen's compensation.

5. TASMANIA.

[*Contributed by* R. A. Lewis, Esq., *Chief Parliamentary Draftsman.*]

Economic Stability.—The object of No. 1 is to ensure that regulations made by the Commonwealth Government with respect to (*a*) the control and regulation of prices; (*b*) the fixing of fair rents and recovery of possession of premises; (*c*) the issue of capital by companies, dividends, mortgages and interest on mortgages, deposits, *etc.*, and (*d*) the purchase, lease, *etc.*, of land and the control of interest rates, shall continue as part of the law of this State if at any time these regulations cannot be supported under the defence power of the Commonwealth. If any of the regulations are declared by the High Court to be beyond the constitutional power of the Commonwealth, they may be brought into force by proclamation issued by the Governor-in-Council under the State Act. The regulations will then have effect in the State as part of the law of the State, as if they were regulations made under the State Act.

Florentine Valley Paper Industry.—No. 6 amends the Florentine Valley Paper Industry Act, 1937, and authorises Australian Newsprint Mills Pty., Ltd., to purchase the preference shares issued under the Act of 1937 to the Treasurer of the State. It provides that the price of these shares is to be fixed in accordance with the company's articles and that the company may treat the shares when purchased as part of its unissued capital.

Hire Purchase.—No. 7 contains provisions which have substantially the same effect as Part III of the National Security (Cash Orders and Hire Purchase Agreements) Regulations of the Commonwealth which expired on December 31, 1946.

The Act provides for minimum payments by way of deposit and the maximum period of hiring in respect of certain specified goods. Every person who sells goods under hire-purchase agreements shall keep records setting out particulars of each such agreement and of the amounts charged or received.

Such records shall be preserved for at least two years after completion of the transaction.

Justices' Procedure.—No. 11 provides that continuous bail may be granted in certain cases and also that where two or more sentences are ordered to run consecutively, the aggregate term of imprisonment shall not exceed two years.

Marketing of Primary Products.—No. 12 extends the operation of the Principal Act to June 30, 1948, and also provides that no proclamation shall be made under the Marketing of Primary Products Act, 1945, in respect of field peas unless and until a board is established in respect of field peas under the provisions of that Act, but shall not affect any proclamation made before the commencement of this Act.

Places of Public Entertainment.—No. 15 amends the principal Act of 1917 and authorises the Governor to make regulations for the registration of cinema theatres and exhibitors of cinematograph films. The regulations may prohibit the exhibition of cinematograph films in any cinema theatre which is not registered, or by any exhibitor who is not so registered. The registration of any

cinema theatre or exhibitor (other than a cinema theatre in which exhibitions of cinematograph films were regularly or usually held at the date of the commencement of the Act or an exhibitor by whom such exhibitions were so held) shall be in the discretion of the registration authority, which shall be a board consisting of a police magistrate and two other persons. The transfer of the registration of a cinema theatre or exhibitor shall be subject to the consent of the board which may cancel or suspend any registration. Provision is made for the exhibition of a prescribed quota or percentage of British Empire films. The registration of a cinema theatre or exhibitor, or the transfer of the registration of a cinema theatre or exhibitor shall not be refused unless the board is satisfied that an additional cinema theatre is not required for the accommodation of the public in the area which would be served by the theatre, or that the theatres in the area provide adequately for its requirements, or that the granting of the application would result in undue or wasteful competition, or that it is not in the public interest that the application should be granted.

Cash Orders.—No. 16 contains provisions substantially similar to those in in Part II of the National Security (Cash Orders and Hire-Purchase Agreements) Regulations of the Commonwealth which expired on December 31, 1946, and to those passed to meet the same situation in Queensland. (See *supra* p. 67.)

Industries Establishment.—Provision is made by No. 19 for the borrowing of £200,000 for the purposes of making loans to encourage new industries. Provision is also made for the acquisition of land and the erection of factories for new industries.

Marketing of Primary Products.—No. 20 authorises the Egg Marketing Board to subscribe for and take up shares in any company having among its objects the marketing, distribution and sale of eggs.

The Act removes the requirement of the Principal Act that no person shall be a prescribed producer of any commodity unless the production of that commodity by that person usually constituted a substantial part of his livelihood.

Flood Sufferers' Relief.—No. 21 gives power to the Board of Management of the Agricultural Bank to write off any amounts owing by any person to the Board in respect of advances made under the Principal Act (20 Geo. VI. No. 3).

Public Service.—No. 22 authorises advances to officers of the Public Service for the purpose of assisting them to purchase motor-vehicles in connection with the performance of their official duties. The maximum amount of any advance and the terms and conditions upon which such advances may be made shall be prescribed.

Berry Fruits.—Approval has been given by No. 23 to an agreement made between the State and certain processors of berry fruits under which the State agrees to advance to an export pool the sum of one penny per pound on raspberries and black currants delivered to the processors, such amount to be repaid by the pool from the proceeds of export sales.

Nurses' Registration.—No. 26 provides for the registration of any qualified person as a general nurse, a midwifery nurse, a mental nurse, a child welfare nurse or tuberculosis nurse, and for the qualifications for registration.

War Service Land Settlement.—The period during which rural land may be reserved from sale in order to facilitate selection of areas for the settlement of ex-service men is increased by No. 27 from six months to twelve months. Certain notices reserving land from sale which had expired are declared to continue to be in force.

Power is given to reserve from land available for allotment any land purchased or acquired which is required for the purpose of providing facilities for community settlement.

Mines.—No. 29 extends the cases in which summary action may be taken to close mines (including quarries) in certain cases where continued operations would constitute a danger to persons in the vicinity.

Domestic Assistance Service.—No. 30 makes provision for the establishment of a domestic assistance service and authorises the making of grants to associations providing domestic assistance.

Provision is also made for the rates of contributions to associations, the enrolment and training of women and girls for domestic assistance in homes, the terms and conditions of employment of domestic assistants whose services are provided by the domestic assistance service established under this Act, and for the payments to be made by householders in respect of domestic assistance under the Act.

Animals and Birds Protection.—No. 31 amends the constitution of the Animals and Birds Protection Board and provides for the appointment of one member to represent associations or organisations of persons who engage for sport or recreation in the shooting of animals and birds, and one member to represent the Tasmanian Farmers' Federation.

Judges' Salaries.—No. 37 increases the salary of the Chief Justice from £1,800 to £2,500, and the salaries of puisne judges from £1,500 to £2,000.

Administration and Probate.—No. 41 omits sub-section (3) of s. 63 of the principal Act (26 Geo. V. No. 38). This sub-section required the Recorder of Titles, in respect of land held under the Real Property Act, 1862, to endorse a memorandum of the registration of personal representatives of a deceased proprietor on probate, or letters of administration.

Censorship of Films.—No. 42 makes provision for the censorship of cinematograph films and for purposes connected therewith. Power is given to arrange with the Commonwealth as to the discharge, *etc.*, of duties, *etc.*, by Commonwealth officers while any arrangement is in operation the powers and duties of the censor shall be exercised by Commonwealth officers. The Act gives the censor wide powers and provides for films to be submitted for approval before being exhibited.

Acts Interpretation.—No. 43 provides that, in the case of an Act passed after January 1, 1948, such Act may be cited by reference to the secular or calendar year in which it was passed and its number. The Act also provides that regulations may be expressed to have retrospective operation in cases where the rights of a person would not be affected or where no liabilities would be imposed on any person.

Acts Enumeration.—No. 44 provides that after January 1, 1948, all Acts shall be numbered according to the secular or calendar year, and not according to the year of His Majesty's reign. A new series of numbers shall be commenced with the first Act passed in each successive year.

Ministers of the Crown.—No. 51 provides for an annual allowance of £250 to be paid to honorary ministers. The number of honorary ministers to whom allowances may be paid shall not exceed three.

Police Offences.—No. 52 makes it an offence for any person to make a false report to the police, and provides a penalty of £50.

Justices' Procedure.—No. 53 provides that where any case or matter is reheard by a judge, the judge may exercise any power which might be exercised by the justices by whom the case was originally dealt with, and any order made by the judge shall have the like effect and be enforceable in the like manner as if made by such justices.

Towns.—No. 56 authorises councils to compel owners of any lands abutting on any right-of-way, lane, or passage to remove any ferns, weeds, rubbish, scrub, undergrowth, or dried grass from such lands.

Food and Drugs.—No. 57 provides that the purchase by an inspector from any person of a sample of a food or drug for analysis shall, for the purpose of the Act, be deemed to be a sale of such sample by such person. The Act also provides that if any person who is charged with an offence proves that he used due diligence to prevent the commission thereof and the offence was due to the

act or default of some other person, that other person may be brought before the court and convicted. Another provision prescribes the conditions upon which a written warranty will be available as a defence to prosecutions under the Act.

Milk Act.—No. 58 provides for the regulation and control of the production, treatment, and distribution of milk; for the encouragement of the consumption and use of milk; and for the constitution of a milk board.

Mothercraft Nurses' Registration.—No. 59 makes provision for the registration of mothercraft nurses; prescribes the qualifications for registration; makes provision for the cancellation and suspension of certificates of registration; and prohibits persons who are not registered under the Act from taking or using any name, title, *etc.*, or wearing or using any badge suggesting that they are mothercraft nurses. Except in cases of emergency, mothercraft nurses are prohibited from attending for gain, or administering any treatment to, persons suffering from any physical or mental disease.

Local Government.—No. 60 provides for the establishment of a Council Clerks' Board which conducts examinations of persons desiring to qualify for appointment as Council Clerks. The board is empowered to grant to successful candidates certificates, to be known as certificates of competency. Provision is made for the granting, without examination, to persons holding office as council clerks or town clerks at the commencement of the Act of certificates, to be known as certificates of qualification. In future, only persons holding certificates shall be eligible for appointment as council clerks. Provision is also made for reciprocity with other States and countries within the dominions.

Audit.—No. 70 increases the salary of the Auditor-General and provides that where the Auditor-General has been suspended from office by the Governor, he shall be restored to office on the presentation of an address by either House of Parliament, instead of by each House as provided in the Principal Act.

Provision is also made for the retirement of the Auditor-General on attaining the age of 65.

Stock.—No. 71 provides that the branding of sheep shall be optional. Where the owner exercises his option to brand any sheep they shall be branded with a brand of the prescribed nature. Certain preparations for branding are prohibited and the Act prescribes the maximum size of the branding surface of a body brand to be used for the purpose of branding sheep and provides that regulations may be made prescribing the application by inspectors of diagnostic and other tests to stocks (whether diseased or not); and the facilities and assistance to be provided by the person in charge of any stock in order to facilitate the inspection and testing of stock.

Roads and Jetties.—No. 74 provides for the making of regulations to regulate and control the passage of shipping and navigation through or under any bridge, and to prescribe and regulate the times at which, and the conditions under which, the passage of shipping or navigation through or under any bridge shall be permitted.

Bookmakers.—No. 79 provides for the issue of three different kinds of certificates of registration, namely:—

(*a*) a certificate entitling a bookmaker to carry on business on race courses only;

(*b*) a certificate entitling a bookmaker to carry on business only within approved premises; and

(*c*) a certificate entitling a bookmaker to carry on business both on racecourses and in approved premises.

A bookmaker may, with the consent of the Board, carry on business on racecourses other than those specified in the certificate of registration, at such times as the Board may determine. A registered bookmaker is required, unless excused by the Board from so doing, to carry on business as a bookmaker on every racecourse specified in his certificate of registration whenever any race

meeting is being held thereon, and upon such other courses as the Board may direct.

The Board shall not direct a bookmaker to carry on business at any racecourse which is situated at a greater distance than thirty miles from his approved premises or residence. The Board has power to suspend or cancel a certificate of registration in certain cases.

Where a certificate is suspended the Board must hold an inquiry within fourteen days, and if it finds that the ground on which the suspension was imposed has been sustained, it may cancel the certificate of registration.

In certain cases a bookmaker is given power to appeal to a judge.

The Act also prohibits any person from knowingly betting with a bookmaker in any place or at any time other than a place or time in or at which the bookmaker is authorised by or under the Act to carry on business as a bookmaker.

State Employees Long-Service Leave.—No. 80 regulates the granting of long-service leave to employees of the State after at least ten years' continuous service as an employee. Leave of absence shall comprise ninety days' leave for each completed ten years' servic, but no more than three hundrd and sixty days' leave shall be granted, in the aggregate, to any one employee.

Where an employee has become entitled to one hundred and eighty days' leave of absence he may be directed to commence such leave of absence or part thereof.

Payment in lieu of leave may be granted in certain cases.

Employees are not to engage in any business or paid employment while on leave.

Licensing Act.—No. 81 provides for increased accommodation in new hotels, and for the granting of certificates for hotel licences, in certain cases, where it is shown that an additional licensed house is necessary in a locality for the purposes of providing accommodation for tourists.

The Act also prescribes an additional ground for objection in the case of an application for the registration of a club, the additional ground being that the proposed club is not warranted by the needs of the locality in which it is situated, and the court is required in all cases, whether or not an objection is made on this ground, to have regard to the question whether a proposed club is warranted by the requirements of the locality where it is situated. Provision is also made for the keeping by every licensee of a lodgers' register book in which shall be entered the name and certain other particulars relating to every person to whom accommodation is made available by such licensee.

Persons under twenty-one years of age are prohibited from being on any part of licensed premises except for some lawful purpose. The Act further provides that if a holder of any hotel or public house licence is convicted of unlawful gaming and betting his licence shall become absolutely void and of no effect, whether or not he has been convicted previously of such offence.

Hydro-Electric Commission.—Special provision is made by No. 82 for the supply of electrical energy to islands which form part of the State.

The Act also provides that of the Associate Commissioners hereafter appointed, one shall be a person who is either a legal practitioner or a public accountant or who is or has been engaged in a large commercial or industrial business or undertaking on his own account or as an active member of a partnership, or as the manager or a director thereof.

Real Property.—The Recorder of Titles is empowered by No. 83 to require any erroneous, incomplete, or defective instrument or document to be re-executed, completed or corrected. The Act also provides that where twelve or more transfers of any allotments forming part of the land comprised in any certificate of title have been registered, the Recorder may direct the registered proprietor to obtain a certificate of title to the remainder of the land before any further dealings may be registered.

The Act enables the Recorder to make an order for a stay of registration in

certain cases, and provides for the making of orders directing mortgages or encumbrances to be discharged if no payment of principal or interest or no acknowledgment thereof by the mortgagor or encumbrancer has been made for a period of twelve years or upwards.

Provision is made for a short form of endorsement—creating a right of drainage and for a short form of fencing condition. It is also provided that the Commissioners shall not, in connection with any applications to bring land under the Act made after January 1, 1948, be required to investigate the title to that land in respect of any period before January 1, 1900, or the latest date prior to that date at which a good root of title to the land is shown by the applicant.

Public Service.—A classification and appeal Board, is set up by No. 84 and one member shall be elected by officers of the Public Service. Where the officers of the Public Service fail to elect a member of the Board, the Governor may appoint an officer to be such member without election, but the member so appointed shall hold office for one year only. The Act also provides for appeals in respect of appointments and promotions. Where the Commissioner proposes to make any recommendation with respect to the appointment of an officer to a vacancy occurring in any office, he shall notify every officer applying for appointment to that vacancy of his intention to make such recommendation. An appeal may be made by any officer who was an applicant for appointment to the vacancy who considers that he is more entitled to appointment to the vacant office, on the ground of superior efficiency, than the officer proposed to be recommended. In the case of offences and punishments any officer who is dissatisfied with any decision, determination, or recommendation given or made by the Commissioner or any special tribunal, may appeal to the Board. The Act further provides that before making any recommendation to the Governor with respect to the retirement of any officer on the ground of incapacity, the Commissioner shall notify the officer of his intention so to do, and of the ground on which he intends to make such recommendation. If the officer is dissatisfied he may appeal to the Board.

Lending of Money.—The amount of interest which may be charged on loans is limited by No. 85. The maximum amount of interest varies from 20%, in the case of a loan of £10 or less, to 10%, in the case of a loan exceeding £50. The Act also provides that the note or memorandum signed by the borrower to certify particulars of any sums due or charged by way of bonus, commission, or premium. The money lender is required to preserve this for not less than three years from the date of the making of the loan.

Transport.—The Transport Commission is authorised by No. 86 to borrow a sum not exceeding £450,000 to meet expenses of working, depreciation or interest, but any sum so borrowed shall not be applied towards the purchase or establishment by the commission of any road transport service, or meeting the expenses of depreciation of any road transport service carried on by the commission.

Workers' Compensation.—Important amendments have been made to the Workers' Compensation Act, 1927, by No. 93. The right of compensation is extended so as to include compensation for certain diseases specified in the schedule, and the maximum salary which will disqualify a worker from receiving compensation has been raised from £8 to £15 a week. The liability of employers for medical and hospital services, *etc.*, has been extended.

The provisions relating to the right of a worker to take action independently of the Act have been considerably amended, and it is provided that the civil liability of the employer shall cease at the expiration of six months after the date on which the injury was sustained, unless proceedings independently of the Act are commenced by the worker within the period of six months.

6. VICTORIA.

[*Contributed by* S. H. Z. Woinarski, Esq., M.A., LL.D.]

The year 1947 saw a decline in the legislative activity of the Victorian Parliament, a mere 56 Acts appearing on the Statute Book. Some observers would be pleased to think that such a legislative trickle tended to show that the bounteous fount which is fed by those who regard regulation as the modern panacea is drying up. The truth, however, simply is that there was a general election in Victoria during the year and a resultant change of government. Just as Cicero was pleased to remark amid the political turmoil of his time that *inter arma leges silent*, so in the middle of the twentieth century the legislative machine is quiescent in the midst of the hustings. Such an interpretation gains force from the fact that of the 56 Acts passed, the vast majority were devoted to local, or as Tacitus might have called them, *paganis rebus*. At least as the parties' protagonists went into the election battle, their speeches were reminiscent of that of Antonius to the Flavianists in the fight before the sack of Cremona.[1] Be that as it may, four Acts appear to have general significance and are accordingly dealt with below.

Private Bill Committees.—No. 5211 is a notable Act which authorises members of parliament acting as members of Private Bill Committees to receive, on a resolution of the House, fees for attendance at such committees.

Local Authorities Superannuation.—No. 5216 continues the benign tendency of helping those who do not help themselves. It provides a comprehensive scheme for superannuation of permanent employees of municipalities and other local authorities. Its main features make superannuation compulsory and to be effected by an endowment policy with an approved insurance company maturing at the age of 65 years or previous death. The premiums are to be equal to 7 per centum of the salary of the employee and payable as to one-half by the Authority and as to one-half by the employee. Of course the Act provides for the appointment of a Board, which consists of the chairman appointed on the nomination of the governing body of the Municipal Association of Victoria; one member appointed on the nomination of the governing body of the Municipal Officers' Association of Australia, Victorian Sub-Branch; and one member appointed on the nomination of the governing body of the Federated Municipal and Shire Council Employees' Union of Australia, Victorian State Branch. The impartial constitution of the Board thus established, it is appointed to administer the Acts, to hold the policies and to ensure payment of premiums and receipt of benefits. It is made in some circumstances the statutory agent of the unwilling employee and may complete a proposal form for insurance with an insurance company, if the employee (after a written request) is recalcitrant. It is made, without liability, the continuing agent of an employee in any case in which, purporting to act under the Act, it has made any arrangement or agreement with an insurance company with respect to a policy effected under the Act; and it is made the unappealable arbiter of the question whether or no an employee of an authority is a permanent employee. Various discretions are also vested in the Board, which is further distinguished by the gift of a combined secretary and chief executive officer. Apparently to emphasise the truth of the maxim that "nothing is lost which a friend gets," the Board may accept commission for payment into the Management Account on effecting insurances. Sundry provisions relate to levies on authorities for management expenses, continuation of insurance on transfer of an employee from one local Authority to another, retiring age for employees, audit, and arrangements for the initial financing of the scheme.

Soil Conservation and Land Utilisation.—No. 5226 in effect repeals existing Acts relating to soil conservation and attempts a more comprehensive handling of the problems involved. It sets up a Land Conservation Authority *vice* the

1. *Tanc. Hist.* 3. 24.

existing Soil Conservation Board and prescribes its powers and functions in grandiose phrases. The Authority is charged with the prevention and mitigation of soil erosion; the promotion of soil conservation; the utilisation of all lands, including Crown lands, in such a manner as will tend towards the attainment of those objects. It is further charged with carrying out surveys and investigations to ascertain the nature and extent of soil erosion throughout the State; with investigating and designing preventive and remedial measures in respect of soil erosion; with carrying out soil conservation plans and experiments and demonstrations in soil conservation and reclamation; with disseminating information, recording and publishing results, instructing and supervising land holders, assisting land holders and co-ordinating the policy and activities of government departments and public Authorities with regard to the alienation, occupation and utilisation of Crown lands. Soil conservation districts may be constituted and a district advisory committee set up in each district. Provision is also made for the establishment of a Land Utilisation Advisory Council to advise as to policy regarding the use of land in water supply catchment areas.

Vegetation Diseases (Fruit Fly).—No. 5258 is designed to protect the fruit industry of Victoria against the introduction or spread of fruit fly. The Governor-in-Council may proclaim areas for the purposes of the Act and prohibit the planting of certain vegetables and plants therein and the removal of fruit therefrom and may cause occupiers and owners of land to eradicate or prevent the spread of fruit fly. These potential victims include the tomato, the pepper, the rock melon, the sweet melon and the cucumber. The Act further provides for compulsory removal of fruit from trees and the spraying of trees in proclaimed areas and for compensation to owners and occupiers for loss incurred by reason of the removal of unripe fruit from trees.

7. WESTERN AUSTRALIA.

[*Contributed by* R. V. Nevile, Esq., *State Crown Solicitor.*]

Eighty-six Acts were passed in the year.

Constitution.—No. 4 removes the necessity for the re-election of a member on acceptance of Ministerial office.

Supreme Court.—No. 9 provides that for the purposes of s. 177 of the Supreme Court Act the word "British" should include "Australian" so that out of Western Australia affidavits may be sworn and taken before certain Australian ambassadorial officers and consular agents.

Crown Suits.—No. 11 repeals the Crown Suits Act, 1898, and provides that the Crown in the right of the Government of Western Australia may sue and be sued in respect of any cause of action accruing after the commencement of the Act in any Court of otherwise competent jurisdiction in the same manner as a subject and that such proceedings shall be taken by or against the Crown under the title "the State of Western Australia." Notice of any intended action must be given within three months of the cause of action arising or of its discovery and the action can only be commenced not less than three months after the giving of the notice and within twelve months of the cause of action arising or its discovery.

The Act does not affect the rights of corporate bodies or Crown instrumentalities created by statute or any right of action against such corporate bodies or instrumentalities nor any right of the Attorney General to sue or be sued on behalf of the Crown. The Crown may intervene or be joined in any civil action in which it appears that the constitutional rights of the Crown may be affected or in which the validity of any State statute may be questioned and such matters may be removed from an inferior court to the Supreme Court.

Provision is made for satisfying any judgment against the Crown and the writs of Extent and *Capias ad Satisfaciendum* are abolished.

The Judges are authorised to make any necessary Rules of practice or procedure.

Public Trustee.—No. 12 amends the wording setting out the circumstances in which the Public Trustee may apply for an order for administration, shortens the time during which the persons named as Executors by a will or the next of kin may apply before any application can be made by the Public Trustee.

On the death of any Executor or Administrator leaving unadministered an estate of less than £500 and no person having applied for letters of administration *" de bonis non "* the Public Trustee may elect to administer the property left unadministered.

The power of the Public Trustee to elect to administer an estate of less than £500 where no person has sought Probate or Letters of Administration is made applicable to the estates of persons dying testate as well as intestate.

The Public Trustee is given power to pay funeral expenses and debts of an insane patient without obtaining letters of administration or probate where the estate does not exceed £100.

The fees payable to the Public Trustee are more strictly limited and power is given to the Public Trustee to fix the rate of interest payable to respective estates the moneys of which are held in the Common Fund.

Dentists.—No. 13 adds to the qualifications for registration as a dentist the holding of a diploma or degree in dental surgery or dental science granted by the University of Western Australia.

Contributory Negligence.—No. 23 repeals s. 3 of the Law Reform (Miscellaneous Provisions) Act, 1941 and provides that where in a claim for damages for negligence the Plaintiff is found to have been guilty of contributory negligence the defendant shall not for that reason be entitled to judgment but the damages recoverable by the Plaintiff may be reduced in accordance with the degree of negligence attributable to the Plaintiff.

The Act is made applicable to actions brought under the Fatal Accidents Act or under s. 4 of the Law Reform (Miscellaneous Provisions) Act, 1941.

Provision is made for saving a Plaintiff's right to full compensation under the Worker's Compensation Act where applicable, but a person having paid Worker's Compensation and being entitled to be indemnified against such payment by a third party under s. 15 of the Worker's Compensation Act may have the amount of such indemnity reduced.

It is further provided that judgment against one tortfeasor is no bar to action against another but if more than one action is brought the damages recoverable shall not exceed in the aggregate the amount awarded in the judgment first given. Any tortfeasor may recover contribution from any other tortfeasor.

The Act only applies where the cause of action arises after its commencement.

Road Districts.—No. 25 empowers a Board to make an agreement with the State Housing Commission in respect to the provision of roads in any area for the purpose of facilitating the operation of the State Housing Act and to accept advances from the Commission for the purpose of providing any such roads.

A Board is also authorised, with the approval of the Governor, to undertake housing schemes by erecting houses either for leasing or sale.

Provision is made for the revesting in His Majesty, on application by a Board, of vacant land in respect of which no rates have been paid for seven years before June 30, 1948.

No. 44 provides that whenever any building erected for human habitation shall be distant not more than one hundred yards from any main supplying electric current for lighting purposes the Board may require the owner to have such building connected to the main and to instal sufficient apparatus to light all rooms used for such habitation.

No. 57 provides that the prohibition contained in the Act against any member of a board voting on or taking part in the discussion on any matter before the board when he has any interest in such matter shall not apply to any matter which may by regulation be exempted or in relation to any matter to such members as the Minister may exempt from the prohibition on the ground that such prohibition would impede the transaction of business.

The building regulations contained in the second schedule to the Act are amended to provide that the appearance of any dwelling house having walls in which wood or other structural material is used is to conform to the general standard of appearance of neighbouring dwelling houses.

Royal Style and Titles.—No. 38 deletes from the Royal Style and Titles of His Majesty the words " Indiae Emperator " or " Emperor of India."

University of Western Australia.—No. 40 incorporates the Guild of Undergraduates.

Native Administration.—No. 42 empowers the Governor by proclamation to declare any place or area defined in the proclamation to be a place or area in which it shall be unlawful for natives not in employment to be or remain and by any subsequent proclamation to revoke or vary any such proclamation.

Municipal Corporations.—No. 45 is in similar terms in reference to the areas of Municipal Corporations.

Street Photographers.—No. 46 makes it unlawful for any street photographer to operate or carry on business unless licensed. Licences are to be issued annually by the local authorities and the number of licences issued by any local authority within its district shall not exceed one licence for every 10,000 of the population of such district. Preference for licences is to be given to discharged members of the forces who prior to April 1, 1947, had been operating as street photographers. A licence shall only be effective in the district in respect to which it is granted. Any ticket or card issued must contain only certain particulars and its form is to be approved by the local authority. A local authority may with the approval of the Governor make by-laws for the purposes of the Act.

Wheat Marketing.—No. 49 is to come into operation on a day to be fixed by proclamation and the Governor may by proclamation from time to time exempt any part of the State from the operation of the Act. The Act shall not apply to wheat retained by the grower for use on the farm where it is grown, to wheat which has been purchased from the Board, to wheat sold or delivered to any person with the approval of the Board, wheat the subject of trade, commerce or intercourse between the States or intended or required by the owners for such purpose or wheat which the Board refuses to accept on the grounds of inferior quality.

Provides for the constitution of the Western Australian Wheat Marketing Board to consist of five members to be appointed by the Governor of whom four shall be appointed by the growers and one nominated by the Minister. A temporary Board is provided for until the constitution of the Board. The Board shall be a body corporate and may sue and be sued and hold real and personal property under the name of the Board. The Board is not in general to be deemed to be the agent of the Crown.

The Board shall not commence to put into operation any resolution of the Board when the member nominated by the Minister notifies the Board that such operation will be reasonably likely to result in jeopardising the repayment of certain advances made under the Act or charging to consumers of wheat in Australia a price greater than the export value of Western Australian wheat or greater than the price fixed for wheat pursuant to any Act enabling the fixing of such a price.

The Board may by public notice fix a day on and after which a grower shall not sell or deliver any wheat to any person other than the Board. The Board has power to license receivers of wheat and delivery to the Board shall be made

by delivering the wheat to a licensed receiver. All wheat delivered to the Board and accepted by it (and it must accept all wheat tendered if of merchantable quality and complying with the prescribed conditions) shall be vested in the Board freed from all charges and encumbrances and the rights and interests of every person to or in such wheat is converted into a claim against the Board to participate in the net proceeds from the disposal of such wheat. Any such claim by a grower is not assignable and the Board shall not be affected by any notice of assignment or other dealing with the share of a grower in such net proceeds.

When a grower has completed his deliveries for the season the Board shall issue a certificate as to the quantity and quality delivered but more than one certificate may be issued to a grower where his deliveries are spread. The Board may, with the consent of the Minister, make advances on account of wheat delivered.

It is provided that in February, 1951, the Minister shall arrange for a ballot of growers as to whether the Act should continue in operation after October 31, 1951, or whether the Board should continue to operate to receive and dispose of wheat voluntarily delivered to it pursuant to contracts between the Board and individual growers.

Rent Restrictions.—No. 50 provides that a caravan used as a dwelling shall be subject to the Act.

The lessee or any rent inspector may require the lessor to furnish a statutory declaration as to the standard rent.

It is made an offence to give or receive any " key money " or any money for information as to a tenancy or the likelihood of obtaining a tenancy or to make any representation that upon the purchase or exchange of any goods any person will receive or obtain any lease or sub lease.

A fair rent may be determined by a rent inspector appointed by the Minister, subject to a right of appeal to the Court.

Electoral Districts.—It is provided that the Chief Justice, the Under Secretary for Lands and Surveys and the Chief Electoral Office are appointed by No. 51 as three Electoral Commissioners with the powers of a Royal Commission to enquire into and make recommendations for the division of the State into fifty electoral districts for the Legislative Assembly and to adjust the boundaries of the electoral provinces for the Legislative Council.

The four electoral districts comprised in the North-West Area shall be divided into three electoral districts.

The Metropolitan Area and the Agricultural Mining and Pastoral Area shall be divided into forty-seven electoral districts each containing an approximately equal number of electors on the basis of counting two electors in a district in the Metropolitan Area as equal to one elector in the Agricultural Mining and Pastoral Area provided that the Commissioners may adopt a margin of allowance of not more than ten per cent more or less to be used whenever necessary and shall also give due consideration to community of interest, means of communication and distance from the capital, physical features and the existing boundaries of districts.

The boundaries of the electoral provinces (with the exception of the North Province) are also to be adjusted provided that each province shall contain a number of complete and contiguous electoral districts as nearly as possible comprising the same area as each province now contains.

The final report and recommendations of the Commissioners is to be forwarded to the Minister within eight months from the date of proclamation of the Act coming into operation and the Governor shall at such time as he deems fit, by Order in Council published in the Government Gazette, promulgate such final recommendations. At the expiration of three months from such publication the final recommendations shall without reference to Parliament, by the force of

the Act, have the force of law and be as effective as if enacted by Parliament and the existing Redistribution of Seats Acts and Electoral Districts Acts shall thereupon become repealed.

The State may from time to time be wholly or partially redivided into electoral districts and electoral provinces by Commissioners appointed in the manner hereinbefore set out whenever directed by the Governor by proclamation which shall be issued on a resolution being passed by the Legislative Assembly in that behalf or if in the report by the Chief Electoral Officer to the Minister as to the State of the rolls made up for any triennial election it appears that the enrolment in not less than five electoral districts falls short of or exceeds by twenty per centum the quota as ascertained for such districts under the Act.

Salaries.—No. 52 increases judicial and ministerial and parliamentary salaries and allowances and also the salaries payable to the private secretary to the Governor, the Auditor General, the Agent General and the Public Service Commissioner.

Advances for Industry.—In conjunction with the Rural and Industries Bank Act, 1944, No. 53 provides that the Treasurer may render financial assistance to any person engaged in mining or industry by making advances or guaranteeing any advance made or to be made by any person or by directing the Bank, through its Government Agency Department, to make advances or guarantee advances made or to be made by any other person.

Water Supply.—The Governor may by Order in Council under No. 62 constitute any defined portion of the State to be a country water area and may similarly constitute any catchment area or water reserve and may constitute any number of rating zones in a country water area.

The Minister is empowered to divert, intercept and store water coming from streams, water courses and other sources within any catchment area or water reserve and may take water found under or on any land within a catchment area or water reserve. For preventing the pollution of water within a catchment area or water reserve the Minister is given all the powers of a Local Health authority under the Health Act, 1911 - 1944.

The Governor may constitute a water board for any country water area or portion of a country water area and each such board shall function as if it were a water board constituted under the Water Boards Act, 1904 - 1942.

The Minister is empowered to construct, extend, alter, repair and maintain waterworks and is clothed with the powers conferred by the Public Works Act, 1902 - 1945 in relation to the construction of public works. Before constructing waterworks the Minister must cause to be prepared plans and specifications, an estimate of cost, a statement of the estimated net earnings, and a statement showing the value of the rateable land to be benefited and must advertise a description of the proposed works and their purposes and the times when and places at which the plans may be inspected. Any local authority or person interested may lodge an objection which must be considered by the Minister but if he considers any objection lodged is not sufficient to warrant approval being withheld he shall submit the plans to the Governor who may forthwith empower the Minister to construct the works.

Where rates have remained unpaid for three years the Minister may subject to certain conditions take possession of the land and from time to time grant leases of the land. Provision is made for release of the property after demand and payment of arrears and for the appropriation of any rent received. Where rates remain unpaid for five years the Minister may subject to certain conditions sell the land, either by auction or private contract in accordance with the provisions set out in the Act.

Child Welfare.—A consolidating Act is No. 66 which repeals and substantially re-enacts the Child Welfare Act, 1907 - 1941.

Iron and Steel Industry.—The Government is authorised by No. 67 to contract or arrange for the development and mining of any iron ore resources of the State, to promote or assist in the promotion of any company having objects which include the establishment, maintenance or carrying on of an iron industry, a steel industry, or an integrated iron and steel industry, to acquire and hold shares in any such company and to direct or control or assist in the direction or control of any such company, to make certain loans and advances and to enter into certain contracts.

Gas Undertakings.—The State Electricity Commission is authorised by No. 68 to fix a basic price for gas supplied by a gas undertaker and limits dividends payable by any gas undertaker.

It enacts special provisions applicable to the issue of shares by a gas undertaker, for schemes of co-partnership and the appointment of employee directors and for the division of surplus profits between consumers, shareholders and employee co-partners.

The Act further contains provisions relating to prepayment meters, to superannuation schemes and pensions for employees and to the method of fixing the purchase money on a compulsory purchase by a local authority.

The State Electricity Commission is to test the gas supplied by any undertaker in accordance with provisions set out in the schedule and is authorised to inspect all works and plant of any undertaker.

Undertakers are to declare the calorific value of the gas to be supplied by them at a standard of between 475 and 550 B.T.U.'s and such declared calorific values are to be published.

Provision is made for maintaining the purity and pressure of gas supplied and for the maintenance by undertakers of testing places and apparatus.

Penalties are set out for defects in heating power, purity or pressure and other contraventions of the Act.

Potato Growing Industry.—The Potato Growing Industry Trust and Advisory Committee is constituted by No. 69 as a body corporate, consisting of three members appointed by the Governor, of whom two shall be elected by commercial producers and one who shall be chairman, an officer of the Agricultural Department.

A Trust Fund is established to which every grower shall contribute in accordance with the potatoes produced and sold by him annually at a rate declared by the Minister not exceeding a penny a hundredweight.

From the Fund shall be paid the costs of administration of the Act and fees and allowances of members of the Committee and subject thereto the moneys in the fund may be used for payment of the expenses of measures taken to eradicate pests and diseases, compensation to growers for losses suffered by reason of such measures being taken, the costs of promotion and encouragement of scientific research, for the provision of financial aid to the Potato Growers Association and any other purpose which will promote and encourage the industry.

Coal Miners' Welfare.—The owner of every coal mine by No. 70 is to contribute at the rate of three-halfpence for every ton of coal produced to a Coal Miners' Welfare Fund to be administered by the Coal Miners' Welfare Board consisting of three members appointed annually by the Governor.

The Board is charged with the administration and application of the Fund for such purposes connected with the provision of amenities for coal miners, and the improvement of the physical, cultural and social wellbeing of coal miners and their education, recreation and conditions of living as the Board may consider desirable and it is clothed with powers and authorities necessary or convenient for giving effect to the Act.

Associations Incorporation.—Any association by No. 71, with the sanction required by its constitution, may alter the objects for which it is constituted, but

no such alteration shall be effective unless and until the Attorney General certifies that after such alteration the association will continue to be an association to which the facilities given by the Act should be extended. A copy of any such alteration verified by affidavit must be filed in the Supreme Court.

Government Railways.—The Commissioner is empowered by No. 72 to use motor vehicles for the purpose of conveying passengers or goods.

Milk.—No. 74 amends s. 26 of the principal Act by substituting new provisions relating to the fixing of minimum prices for milk sold in any dairy area, the maximum prices to be charged by milk vendors to other milk vendors, the maximum rates chargeable for the treatment of milk and the maximum prices at which milk may be sold retail.

Censorship of Films.—The Governor is authorised by No. 79 to arrange with the Governor-General of the Commonwealth for the exercise and discharge of the functions of censorship of films by officers of the Commonwealth on behalf of the State.

Failing the making of such an arrangement the Act authorises the appointment of a film censor and deputy film censors. No film, unless exempted under the provisions in the Act, is to be exhibited unless approved by censor who may also require advertisements proposed to be used with respect to any film to be submitted for his approval. The censor may also order a film to be withdrawn from exhibition for further censorship.

An appeal lies from any decision of the censor to the Minister or to a person authorised by the Minister to hear such appeals.

Distributors and exhibitors of films are to be registered.

IV. NEW ZEALAND.

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The First Session of the 28th Parliament of New Zealand extended from the end of June to the end of December, 1947, and resulted in an unusually large number of Acts (sixty-six Public, eleven Local, and two Private), several of them being of great length and some of them of considerable interest.

The Public Acts included the Contributory Negligence Act, the Statute of Westminster Adoption Act, an Act to request and consent to an Act of the United Kingdom Parliament to give the New Zealand Parliament full power to amend the Constitution of New Zealand, an Act to provide for increased powers of self-government for Samoans, an Act providing Superannuation for Members of Parliament, an Act making workers' compensation insurance a State monopoly, and an Act ending the power to make new regulations.

Notes on the more important Acts are set out below.

Dairy Products Marketing.—Act No. 2 established the New Zealand Dairy Products Marketing Commission for the purpose of acquiring and marketing all butter and cheese intended for export, fixing the prices to be paid for the butter and cheese so acquired, and regulating the marketing of butter and cheese in New Zealand.

Contributory Negligence.—The Contributory Negligence Act (1947, No. 3) provided for the apportionment of liability in cases of contributory negligence. Ss. 1 to 6 are in the same terms, with necessary adaptations only, as the Law Reform (Contributory Negligence) Act, 1945 (8 & 9 Geo. VI, c. 28) of the United Kingdom Parliament. S. 6 saves from the application of the Act the special provisions as to negligence in the case of accidents in coal mines and other mines.

Finance.—Two Finance Acts were passed in 1947, Nos. 6 and 45. Act No. 6, by s. 2 authorised the Minister of Marketing to hold shares and enter into contracts on behalf of the Crown. Ss. 11 to 14 abolished the national security tax on income, which was collected for war purposes as an addition to the social security charge.

S. 15 made persons absent from New Zealand on Government service liable for social security charge as if still resident in New Zealand. Part II amended the law relating to death duties in the case of a widow and infant children of a deceased person, and in the case of remote successors domiciled outside New Zealand. Part III made various amendments to the National Provident Fund Act, 1926.

Part I of the Act No. 45 included provisions authorising the Minister of industries and Commerce to charter ships on behalf of the Crown, abolished the Main Highways Account, into which certain motor-spirits taxation and other taxes were paid to be earmarked for the construction and maintenance of highways, authorised the Public Trustee to provide dwellings for the accommodation of his staff, and made various amendments as to income tax and the social security charge.

Part II of Act No. 45 exempted estates under £500 from estate duty (instead of £200 as formally), granted further exemptions from succession duty, and contained provisions concerning marginal rates of duty.

Food and Drugs.—The Food and Drugs Act (1947, No. 7) consolidated (with amendments) the law relating to the sale of food and drugs.

War Marriages.—The Matrimonial Causes (War Marriages) Act (1947, No. 8) extended the jurisdiction of the Supreme Court to divorce proceedings in relation to certain war marriages irrespective of domicile. Part I followed exactly the provisions of ss. 1 and 4 of the Matrimonial Causes (War Marriages) Act, 1944 (7 & 8 Geo. VI, c. 43) of the United Kingdom Parliament, so as to ensure reciprocal recognition in the United Kingdom and other British countries of New Zealand decrees made under Part I. The Act replaced war regulations which went further than the United Kingdom Act by including cases in which the parties had lived together in the husband's country. These cases are covered by s. 5 of the Act, which will enable decrees to be made that are valid in New Zealand, although probably not recognised in other countries. Other provisions in Part II were s. 6, which gave the New Zealand Court jurisdiction in proceedings for nullity of marriage where the husband is domiciled in New Zealand but, the marriage being void *ab initio,* the Court may not have jurisdiction by reason of the wife being domiciled in another country. S. 7 provided for the recognition of American decrees of divorce as valid in New Zealand in the case of marriages in New Zealand women to United States men, notwithstanding that the decree may not be recognised by the law of the husband's State, having been granted in another State the Courts of which do not base their jurisdiction strictly on domicile. The section only applies to decrees made within three years of the appointed day, and was designed to remove the uncertainty that would arise from the extreme difficulty of ascertaining whether any particular decree was strictly valid or not. S. 8 shortened from three years to one year the period of desertion or separation required as a ground for divorce in the case of war marriages celebrated before the passing of the Act.

Hospitals.—The Hospitals and Charitable Institutions Amendment Act (1947, No. 9) authorised Hospital Boards to provide certain health services of a preventive nature, and included provisions relating to the appointment of a medical director of an obstetrical and gynæcological hospital in Auckland.

Royal Titles.—The Royal Titles Act (1947, No. 11) assented to the change envisaged by s. 7 (2) of the Indian Independence Act, 1947 (10 & 11 Geo. VI, c. 30) of the United Kingdom Parliament, *viz.*,—the omission of the words "*Indiae Imperator*" and "Emperor of India" from the Royal Style and Titles.

Registration of War Deaths.—The Births and Deaths Registration Amendment Act (1947, No. 12) made permanent provision as to a special War deaths register that was first established by war regulations.

Police Force.—The Police Force Act (1947, No. 13) consolidated with minor amendments the law relating to the establishment and regulation of the Police Force. S. 11 restricted the right of members of the Force to resign, and replaced war regulations made in that behalf. Ss. 21 to 23 provided for inquiries as to breaches of duty by members of the Force.

S. 35 authorised the appointment of committees of inquiry to investigate matters connected with the Force, including claims as to promotion, pay, or conditions of service. S. 43 authorised the temporary exchange of members with members of Police Forces of the Australian States.

Industrial Conciliation and Arbitration.—The Industrial Conciliation and Arbitration Act (1947, No. 15) provided for the appointment of Deputy Judges of the Court of Arbitration, with power to act in place of the Judge during his illness or absence, and to exercise certain functions by virtue of delegation by the Judge, subject in the latter case to appeal to the Court. S. 8 provided for the taking of a secret ballot by every industrial union of workers or of employers on questions relating to strikes or lockouts. The section did not render lawful any strike or lockout that would otherwise be unlawful. S. 9 declared that the Court had and has always had power to interpret its awards, and also industrial agreements.

Magistrates' Courts.—The Magistrates' Courts Act (1947, No. 16) consolidated and amended the law relating to Magistrates' Courts and to the exercise of civil and criminal jurisdiction by Magistrates. The principal amendments provided for an extension of jurisdiction in civil cases (ss. 29 to 33 and 37), for the Courts to have jurisdiction in matters which were formerly outside their jurisdiction and to grant equitable remedies (ss. 34, 41 and 42). Magistrates' salaries were increased by s. 6 to £1,250 a year, payable without further appropriation. S. 7 provided that Magistrates may be removed from office by the Governor-General for inability or misbehaviour, and are to retire at the age of sixty-eight years. Certain procedural matters appearing in the earlier legislation were omitted and are now to be provided for by rules.

International Air Services.—The International Air Services Licensing Act (1947, No. 17) provided for the licensing of international air services carried on in New Zealand. The Minister in charge of the Air Department is the sole licensing authority under the Act, which contains provisions relating to the granting, conditions, transfer, and revocation of licences.

Local Elections.—The Local Elections and Polls Amendment Act (1947, No. 24) besides making miscellaneous minor amendments required all employers to allow their employees to leave their work for the day not later than 3 p.m. on the date of any general election of members of local authorities or (in the case of workers required for essential work) to have adequate time off to vote, without any deduction of pay in either case.

Public Debt.—Part I of the New Zealand Loans Amendment Act (1947, No. 25) consolidated and amended the provisions relating to the repayment of the public debt, including the constitution and functions of the Public Debt Commission, and simplified the accounts relating to the public debt. Part II, as to British investors' rights, confirmed an undertaking given by the New Zealand Government to the United Kingdom Government under the Colonial Stock Acts, 1877 to 1934, to ensure the recognition of New Zealand Government securities as trustee securities in the United Kingdom. The undertaking was to refrain from passing legislation adversely affecting the holders of such securities, and to amend any such legislation at the request of the United Kingdom Government. The section replaces s. 32 of the New Zealand Loans Act, 1932, which provided for the disallowance by His Majesty of any such legislation. Such a power of disallowance is inconsistent with the position of New Zealand in view of the adoption of the Statute of Westminster by Act No. 38 of 1947.

War Pensions.—Further increases in pensions and allowances under the War Pensions Act, 1943, and the War Pensions and Allowances (Mercantile Marine) Act, 1940, were provided for by Acts Nos. 26 and 27 of 1947.

Social Security.—The Social Security Amendment Act (1947, No. 28) further increased the monetary benefits under the Social Security Act, 1938 (the basic rate of the age-benefit being raised from £104 to £117 a year). The Act also authorised the delegation of the Social Security Commission's powers to district Registrars, and enabled persons absent from New Zealand on Government service and their families to count the period of their absence as residence in New Zealand for the purpose of qualifying for benefits. (S. 15 of the Finance Act (1947, No. 6 *supra*) made such persons liable to pay the social security charge during their absence.)

Customs Acts.—The Customs Acts Amendment Act (1947, No. 29) increased the customs duty on tobacco, imposed sales tax on cigarettes, increased the beer duty, altered the supervision fees for licensed warehouses and breweries, and exempted further foodstuffs from sales tax.

Masterton Licensing.—At the licensing poll held concurrently with the general Parliamentary election on November 27, 1946, the electors of the Masterton no-licence district voted with the required majority for the restoration of licences. On May 28, 1947, special polls were taken in three defined portions of the district, at which the Masterton portion voted for Trust control and the other portions voted against it. The Masterton Licensing Restoration Act (1947, No. 31) provided for the ordinary provisions of the Licensing Act, 1908, to apply in the two latter portions, and the Masterton Licensing Trust Act (1947, No. 35) made special provision for the first-mentioned portion by constituting it as the Masterton Licensing Trust District and also establishing a corporate body called the Masterton Licensing Trust to have the sole right to sell intoxicating liquor in the district, with power to establish and maintain hotels and also dining and refreshment rooms in which liquor may be supplied, and power to obtain a licence to establish and maintain a brewery. The six members of the Trust are to be elected by the residents of the district, and a Government member may be appointed so long as the Trust is indebted to the Government for an advance or a guarantee of its overdraft. S. 44 provided for the distribution of the Trust's profits for public purposes within the district.

Post and Telegraph Department.—The Post and Telegraph Amendment Act (1947, No. 32) made various miscellaneous amendments, including s. 3, which authorised the making of regulations providing for compulsory membership of the Post and Telegraph Employees' Association and Officers' Guild.

Treaties of Peace.—The Treaties of Peace (Italy, Roumania, Bulgaria, Hungary, and Finland) Act (1947, No. 33), authorised the Governor-General in Council to make regulations to give full effect to the peace treaties entered into with the countries referred to in the Short Title.

Forest and Rural Fires.—Act No. 34, for the purpose of preventing and suppressing forest and rural fires, provided for the declaration of areas as rural fire districts and for the setting up of a Fire Authority in each district. The Act provided for a State fire prediction and warning service, and imposed restrictions on the lighting of fires in the open air in certain places during periods of danger indicated by an Order in Council declaring a closed fire season in any district, or by a warning or order given by radio broadcasting or other effective means in the case of weather conditions presenting " an extreme fire hazard." The Act imposed a duty on all persons to endeavour to extinguish any such fires in those circumstances, and also made it an offence to leave any lighted match, cigarette, *etc.*, or other burning or smouldering substance on any land. Any Fire Authority may require owners of plantations to make fire breaks, subject to an appeal to a Fires Appeal Tribunal of three persons appointed by the Governor-General. Fire Officers were given extensive powers in relation to fire suppression, including

the power to requisition the assistance of any fit man over 18 years of age. The expenditure of any Fire Authority may be met as agreed upon by the persons interested in its operations, or may be raised by a levy imposed on land owners by the Fire Authority, subject to appeal to the Fires Appeal Tribunal. The Crown or any Fire Authority or other lawful authority is not to be liable for damage caused in a *bona fide* exercise of its fire-fighting powers, but any such damage is deemed to be covered by fire insurance policies.

Patents, Designs, and Trade-Marks.—The Patents, Designs, and Trade-Marks Act (1947, No. 37) authorised the Governor-General in Council to make regulations to give effect to the London Accord relating to former German-owned patents, and to the Neuchatel Agreement relating to the preservation or restoration of rights of industrial property affected by the second world war. The Commissioner of Patents was authorised to dispense with the production of probate or letters of administration in the estates of deceased proprietors or of applicants for patents, designs, or trade-marks in certain cases. The Act also contained provisions similar to s. 12 of the Atomic Energy Act, 1946 (9 & 10 Geo. VI. c. 80) of the United Kingdom's Parliament concerning security measures as to inventions relating to atomic energy.

Statute of Westminster and New Zealand Constitution.—The Statute of Westminster Adoption Act (1947, No. 38) adopted ss. 2 to 6 of the Statute of Westminster, 1931, 22 Geo. V. c. 4) as from November 25, 1947. By s. 10 of the Statute, ss. 2 to 6 did not apply to New Zealand until adopted by the New Zealand Parliament. The effect of the adoption was to a great extent limited to bringing the law into line with long-established constitutional practice. It is now clear that New Zealand Acts can operate extra territorially, cannot be held void for repugnancy to United Kingdom statutes, and need not in any cases be reserved for the King's assent. Also, by virtue of s. 4 of the Statute, no future Act of the United Kingdom Parliament is to apply to New Zealand except at the request and with the consent of New Zealand. The adopting Act provided that any such request and consent is to be that of the Parliament of New Zealand. Pursuant to these provisions the New Zealand Constitution Amendment (Request and Consent) Act (1947, No. 44) was also passed on November 25, 1947. It requested the enactment of the New Zealand Constitution (Amendment) Act, 1947, which was introduced in the House of Lords on November 27, 1947, and passed before the end of the year. This United Kingdom Act gave the New Zealand Parliament full power to amend or repeal the New Zealand Constitution Act, 1852 (15 & 16 Vict., c. 72). S. 8 of the Statute of Westminster provided that nothing in the Statute would confer any power to repeal or alter the New Zealand Constitution Act otherwise than in accordance with the existing law, and it was therefore necessary to ask the United Kingdom Parliament to pass this Act, which repealed the New Zealand Constitution (Amendment) Act, 1857 (20 & 21 Vict., c. 53). The power to alter the Constitution Act conferred by the Act of 1857 was restricted so as not to apply to certain specified sections, constituting practically the whole of the operative parts of the Constitution Act. It would now be lawful for the New Zealand Parliament (if it thought fit) to pass an Act to abolish the Legislative Council. A Bill for this purpose was introduced by the Leader of the Opposition in 1947 (before the adoption of the Statute of Westminster) but did not receive a second reading. New Zealand has at last adopted the Statute of Westminster and assumed full control over its constitution with some reluctance, in recognition of the existing constitutional position. The Government has made it plain that no weakening of the ties with the United Kingdom and the other members of the British Commonwealth is desired or contemplated.

Diplomatic Privileges.—The Diplomatic Privileges Extension Act (1947, No. 39) re-enacted Act No. 30 of 1945, relating to the immunities, privileges, and capacities of international organisations and of their officers. The Act was extended to persons employed on missions for international organisations, and

to persons representing their Governments at international conferences in New Zealand.

Minimum Wage.—Act No. 40 increased the universal minimum wage established by Act No. 44 of 1945 to £5 15s. 0d. a week for males and £3 13s. 0d. a week for females, with corresponding rates for workers paid by the hour or the day, or doing piecework.

Adult Education.—The Adult Education Act (No. 43) constituted the National Council of Adult Education as a body corporate, to promote and foster adult education and the cultivation of the arts. S. 22 provides for the setting up in each of the four University districts of a Regional Council of Adult Education. S. 23 authorises the establishment of community centres for the purpose of providing educational and cultural activities for persons residing in the locality.

Motor-Ways.—The Public Works Amendment Act (1947, No. 46) provided for the construction of new highways or the classification of existing highways as " motor-ways " for the exclusive use of fast moving through motor traffic.

Rabbit Nuisance.—The Rabbit Nuisance Amendment Act (1947, No. 47) established the Rabbit Destruction Council to investigate the extent of the rabbit nuisance, to devise and promote measures for the destruction of rabbits, and to co-ordinate and supervise the activities of the local Rabbit Boards, and to make grants to Rabbit Boards. S. 13 imposed a levy on all rabbit-skins produced and sold in New Zealand, and ss. 15 to 20 increased the powers of Rabbit Boards.

Western Samoa.—The Samoa Amendment Act (1947, No. 48) amended the Samoa Act, 1921, so as to provide for the administration of the territory of Western Samoa by New Zealand under the trusteeship agreement approved by the general Assembly of the United Nations on December 13, 1946 (which has replaced the former League of Nations mandate) in such a manner as to achieve the basic objectives of the international trusteeship system and, in particular, to promote the political, economic, social, and educational advancement of the inhabitants of Western Samoa, and their progressive development towards self-government. The Act was brought into force by Proclamation on March 10, 1948. S. 3 provided for the appointment of a High Commissioner of Western Samoa and a Deputy High Commissioner, in place of the former Administrator and Deputy Administrator. Ss. 4 and 5 provided for a Council of State, to be consulted by the High Commissioner on all proposals for legislation and other matters, and to consist of the High Commissioner and the Samoans holding office as *Fautua*, the *Fautua* being appointed by the Governor-General in Council in accordance with regulations. S. 6 established a Legislative Assembly of Western Samoa, consisting of the Samoan members of the Council of State, eleven Samoan elected or nominated members, five European elected members, and six official members. S. 8 empowered the Legislative Assembly to make Ordinances for the peace, order, and good government of the territory, with reservations as to defence (except the taking of land), external affairs, and the title to Crown lands. S. 9 provided that Ordinances might repeal or amend any New Zealand or United Kingdom legislation in force in the territory except such Acts and regulations as are declared by or under s. 9 to be " reserved enactments." Ss. 10 and 11 related to procedure and empowered the High Commissioner (acting in accordance with the instructions of the Minister of Island Territories) to assent to any bill for an ordinance, or to refuse his assent, or to return a bill with amendments for consideration.

Rehabilitation.—Act No. 49 made several miscellaneous amendments to the Rehabilitation Act, 1941, including provisions extending the power to assist servicemen's widows, enabling trade training and financial assistance to be given to ex-members of His Majesty's Forces other than New Zealand Forces, and enabling members of Parliament to receive subsidies on wages paid by them to service men without becoming disqualified for receiving public moneys.

Control of Prices.—The Control of Prices Act (No. 51) made permanent provision for the control of prices, very much on the lines of the war regulations

already operating. The Price Tribunal was reconstituted, to consist of a President, one or more ordinary members, and one or more associate members, all to be appointed by the Governor-General to hold office during pleasure. The functions of the Tribunal are to fix prices for goods and services (by Price Orders or special approval), to investigate complaints about prices, and to maintain a survey of prices, to institute prosecutions for offences, and to prevent profiteering.

Price Orders can be made only with the authority of the Minister of Industries and Commerce. The Tribunal was given far-reaching powers of investigation and the right to inspect books and call for information and returns. Witnesses may be required to give evidence incriminating themselves, with a right to a certificate of indemnity on making full disclosure. Part III of the Act made it an offence to charge a price in excess of that ruling on September 3, 1939 (or such later date as may be prescribed) for goods or services for which the price is not fixed by the Tribunal. Part IV related to offences such as profiteering, black-marketing, and hoarding. S. 39 provided for the appointment of a Director of Price Control as a public servant to exercise such powers as the Tribunal may delegate to him. It is anticipated that the Director will exercise the executive powers of the Tribunal, and act as the administrative head of the price control division of the Department of Industries and Commerce.

Public Health and Mental Hygiene.—The Health Amendment Act (1947, No. 52) abolished the Mental Hospitals Department established under the Mental Defectives Amendment Act, 1928, and reconstituted it as the Division of Mental Hygiene of the Department of Health.

Superannuation.—The Superannuation Act (No. 57) consolidated and amended the various statutes relating to the superannuation of Government employees, and provided for superannuation for members of Parliament. It established a Government Superannation Board in place of the three former Boards relating to the Railways Department, the teaching profession, and the Public Service generally, and combined the three former funds into one Government Superannuation Fund. The provisions as to contributions and retiring allowances are substantially the same as those established by the Superannuation Amendments Acts of 1945 and 1946, but the wording and procedure have been simplified. Contributions are on a scale ranging from 5% to 9% according to the age of entry (s. 26), and retiring allowances at the rate of one hundred and twentieth of the average salary for the last five years of service, plus a subsidy of an equal amount (but not more than £300 or less and £3 15s. 0d. for each year of service), are payable on retirement to men who have reached 65 years of age or who after forty years' service have reached the age of 60, and to women who reached the age of 55 years or have had thirty years' service, as well as in various other special cases (s. 31). The widow of a deceased contributor is entitled to an allowance of half her husband's allowance or £104 a year, whichever is the greater (s. 39), and children of deceased contributors receive an annual allowance of £26 a year until they are 16 or (if still at school) until they are 18 years of age. Part III made special provision for members of the Armed Forces, with a retiring allowance on compulsory retirement after twenty years' service (s. 62). Part IV made special provisions as to Magistrates on the same lines as the former legislation, but extended to apply to Judges of the Maori Land Court also. Part V related to parliamentary superannuation. Every member of the House of Representatives is to contribute £50 a year from his honorarium and to receive on retirement a retiring allowance of £250 a year if his service is not less than nine years, plus £25 a year for each additional year of service, with a maximum of £450 a year. A widow is entitled to a retiring allowance at two-thirds the rate of her husband's allowance. In every case where an allowance is payable under the Act to a contributor or his widow, a refund of contributions may be taken instead. S. 86 required the Government to pay into the Fund each year the amounts certified by the Government Actuary as being required to provide the annual liability of the Fund over

the amount of the employees' contributions, as well as an annual instalment to pay off the existing actuarial deficiency in the Fund within a period of years to be fixed by the Minister of Finance.

Workers' Compensation.—The Workers' Compensation Amendment Act (1947, No. 58) made important amendments to the Workers' Compensation Act, 1922. Part I relates to employers' indemnity. Under s. 6 workers' compensation insurance (which was already compulsory) was made a monopoly of the branch of the State Fire Insurance Office known as the Government Accident Insurance Office, with provision for exemption from the monopoly of local authorities and certain mutual insurance associations. S. 11 provides for the automatic indemnity by the Government Accident Insurance Office of every employer from his liability under the principal Act. S. 16 provides for the compulsory payment of premiums by employers. S. 29 relates to the prevention of accidents, and s. 30 to the occupational training of seriously disabled workers. Part II increased the amount of compensation payable in respect of death, incapacity, or permanent injury (with a new maximum of £1,500), applied the principal Act to accidents to the crews of New Zealand aircraft, and makes amendments about accidents to workers travelling to and from work, the provision of artificial limbs, and the conveyance of injured workers. S. 49 provides that the dependants of a deceased worker are to be determined as at the date of his death.

Maori Affairs.—The main effect of the Maori Purposes Act (No. 59) was to substitute the word " Maori " for the word " Native " in all statutory references to the Maori race. The Native Minister became the Minister of Maori Affairs, the Native Department became the Department of Maori Affairs, the Native Trustee became the Maori Trustee, and corresponding changes were made in the names of all other persons and bodies and in the Short Titles of all existing Acts where the word " Native " formerly appeared. Among the various provisions relating to general or particular Maori affairs, the Act included several minor amendments to the Maori Social and Economic Advancement Act, 1945 (No. 43), one in particular entitling a person charged with an offence against a by-law to elect to be dealt with summarily under the Justices of the Peace Act, 1927, instead of by the local Tribal Committee.

Statutes Amendment.—The Statutes Amendment Act (1947, No. 60) contained seventy-three sections and amended thirty-five Acts. S. 5 made it an offence to buy at a discount a holiday card under the Annual Holidays Act, 1944, with stamps affixed representing holiday pay to be available at the end of the year. S. 7 increased from £50 to £100 the value of the furniture, *etc.*, that a bankrupt is entitled to retain. S. 8 authorised the Minister of Broadcasting to use the national broadcasting service to provide concerts and entertainments without their being broadcast, and generally to promote and assist in the development of the arts and cultural pursuits associated with broadcasting. S. 15 applied Part I of the Family Protection Act to adopted children and grandchildren of the testator or intestate. S. 28 authorised the making of rules of court conferring on Registrars of the Supreme Court specific parts of the jurisdiction and powers of a Judge sitting in Chambers. S. 48 prohibited the use of the emblem, seal, or name of the United Nations for business purposes.

Air Force.—The Air Force Amendment Act (1947, No. 61) constituted the existing Air Training Corps and the Women's Auxiliary Air Force as parts of the Royal New Zealand Air Force, and revoked the war regulations under which the Women's Auxiliary Air Force was established. The Act also empowered the Minister of Defence to authorise the Air Force to operate aircraft for hire or reward, the Crown to be regarded as a common carrier in the appropriate cases.

Fair Rents.—The Fair Rents Act (1947, No. 62), in Part II, provided for the compulsory letting of unoccupied houses, not including an absent owner or tenant's permanent home or houses used for holiday purposes only. The City Council or other local authority was empowered to require the owner of a house left

unoccupied for twenty-eight days to let it, and on default (subject to a right of appeal to a Magistrate), the State Advances Corporation is to be notified, whereupon the house becomes subject to Part I of the Housing Act, 1919, and may be let by the Corporation accordingly. While the house is so subject the Corporation is liable to the owner for the fair rent, less expenses, and retains the rent actually received. The house may be handed back to the owner at any time if it is to be occupied or is unlettable. Part I of the Act made various technical amendments to the Fair Rents Act, 1942, and required all landlords to keep a register showing particulars of every tenancy.

Patriotic and Canteen Funds.—The Patriotic and Canteen Funds Act (1947, No. 63) made provision for the administration and control of moneys raised for patriotic purposes during the second world war, and of the surplus profits of service canteens. It replaced, with alterations, the war regulations relating to patriotic funds, reconstituted the Patriotic Fund Board and the Provincial Patriotic Councils established under those regulations, and also established the Canteen Fund Board. The funds concerned are to be administered for the benefit of discharged service men and their dependants and the dependants of deceased service men who are disabled, sick, unemployed or otherwise in need. By s. 47 restrictions were placed on the unauthorised collection of moneys for these purposes.

War Regulations.—The Emergency Regulations Act, 1939, was passed at the beginning of the second world war to empower the making of emergency regulations for the purposes of public safety, defence, the prosecution of the war, the maintenance of essential supplies and services, and generally for safeguarding the interests and maintaining and promoting the welfare of the community. Power was conferred to modify or override any other enactments (including statutes) by regulations made under the Act. Since 1940 the duration of the Act has been limited, being extended from year to year. Two Acts of 1947 mark the beginning of the abolition of this special regulation making power. The Supply Regulations Act (1947, No. 65) authorises the making of "supply regulations" for maintaining, controlling, and regulating supplies and services essential to the well-being of the community, and for contributing to the equitable distribution of goods in short supply throughout the world. Supply regulations, like emergency regulations, may override Acts and other enactments. Certain specified emergency regulations are declared to be supply regulations as if made under the Act. S. 9 provides that the Act is to expire on December 31, 1948.

The Emergency Regulations Continuance Act (1947, No. 66).—This amends the principal Act of 1939 by repealing those parts that authorise the making of emergency regulations, and also the provision limiting the duration of the principal Act. Certain specified emergency regulations are continued in force until December 31, 1948, and all other emergency regulations (except those continued as supply regulations by Act No. 65) are revoked. (As a matter of fact large numbers of emergency regulations, including practically all except those continued by the two Acts, had previously been specifically revoked.) S. 4 of Act No. 66 empowers the making of regulations to amend or extend any of the regulations continued in force by the Act.

V. WESTERN PACIFIC.

1. FIJI.
2. GILBERT AND ELLICE ISLANDS.
3. SOLOMON ISLANDS.

[*It is hoped to publish the reviews in the next issue.*]

4. KINGDOM OF TONGA.

[*Contributed by* C. W. T. JOHNSON, *Esq., H.B.M.'s Agent and Consul.*]

LAWS ENACTED—10.

Prices of Goods.—The Prices of Goods Act, 1941, is repealed and replaced by the new Act No. 3 providing for stricter control by the Competent Authority, and also for the control of services and labour generally. To prevent barter and consequent evasion of the purpose of the Act, the Competent Authority may not only fix minimum prices, but regulate the manner in which payment may be made. Previously the Competent Authority was appointed by the Premier; in future this body will be appointed by Her Majesty in Council whose consent is also required to any Order issued by the Competent Authority controlling the maximum wages which may be paid labour.

Customs Duties.—In 1942 the Agent and Consul was granted by the Tonga Government, in view of the special circumstances then obtaining, exemption from Customs duty in respect of personal as well as official importations. At the request of the Agent and Consul the position has now been restored, and No. 4 provides that only official importations will be exempted from Customs duty.

S. 3 of the Act provides for an increase of the export tax on copra from thirty shillings to three pounds per ton.

Land.—The Land Act, 1927, is amended by No. 5 by prohibiting the sub-lease, or transfer, of a lease until the consent of Cabinet is first obtained. Formerly the consent of Cabinet was only required to the grant of a new lease.

Treasury Notes.—S. 6 of the Treasury Notes Act, 1935, is repealed and replaced by No. 6. The section which is now repealed provided only for exchange by the Treasurer of Tongan and Australian currency, and for a maximum levy or commission of $1\frac{3}{4}$ per centum to be paid to the Treasury for providing its services. The new section permits of the Treasury exchanging Tongan currency with that of any country and vice versa. In the case of Australia the two currencies shall be deemed to be at par, and in the case of any country other than Australia the Treasurer shall fix the rate of exchange.

The new section also increases the maximum rate of commission which may be levied by the Treasurer to 4 per centum.

Copra Tax.—No. 7 provides for the payment of tax, in proportion to the amount of copra produced annually, by copra producers. The first twenty tons produced in any one calendar year by a producer are exempt from tax; producers producing more than twenty tons in any one calendar year will pay tax on all additional copra over twenty tons at a rate which will increase by three pence a ton for each ton in excess of twenty tons.

Prisons.—No. 8 provides for the better supervision of Prisons administration and for the appointment by Her Majesty in Council of Prison Visitors.

Registration.—No. 9 providing for the Registration of names, births, deaths and marriages, repeals and replaces the Marriage and Registration Acts of 1926, 1933, 1935, 1936, and 1944 in full, and Section 2 and 3 of the False Statements Act, 1929.

The chief changes brought about by the new law are that marriage becomes a civil instead of a church ceremony, and the use of surnames, previously changeable at will, becomes compulsory. Fuller details of general registration are required than formerly.

The Act only applies to Tongans.

The Wharves.—The purpose of No. 10 is to define the word " day " since this is the unit of time by which the payment of wharfage is calculated. Previously " day " was always broadly interpreted by the Harbour Authority

as being the period between midnight and midnight, to the detriment of vessels which berthed late at night or on Sunday, with no possibility of commencing unloading or loading for some hours.

5. NEW HEBRIDES.

[*It is hoped to publish the review in the next issue.*]

VI. SOUTH AFRICA.

1. UNION OF SOUTH AFRICA.

[*Contributed by* Dr. L. H. Wessels, *Law Adviser.*]

1944

During the year 1944 the Union Parliament passed 51 Acts of which the following are worthy of special note:—

Interpretation of Statutes.—The provisions of the Interpretation Act, 1910, relating to the exercise of powers and duties were amended by No. 5 by the addition of the following sub-section:—" Where any provision in any law confers a power or imposes a duty or entrusts a function to any Minister of State, that power may be exercised and that duty shall and that function may be performed by any other Minister of State to whom the administration of that provision may be assigned by the Governor-General, either specifically or by way of a general assignment of the administration of any law or of all laws conferring powers, imposing duties or entrusting functions to such first-mentioned Minister, or by any other Minister of State acting on behalf of any such Minister."

Division of Land.—In terms of the Provincial Powers Extension Act, No. 10 provincial councils now have the power, in addition to any powers they had at the commencement of the Act to prohibit or regulate the division of land, to make ordinances prohibiting the division of land or regulating such division by means of a survey and transfer or a survey and registered lease of any land, which is not owned by the State and which does not form part of areas set aside for Natives, into portions of which any one is of an extent of less than twenty-five morgen (or, in the Province of Natal, less than fifty acres), and provincial councils may by ordinance provide, in connection with any such division, for conditions restricting the use of any portion of any land so divided, or imposing on any such portion any servitude in favour of the public. The division of land as regulated above may not be effected unless the Minister of Lands has satisfied himself that the proposed division is not likely to give rise to the application of the Unbeneficial Occupation of Farms Act, 1937.

Public Servants.—No. 27 provides that an officer on the fixed establishment in the public service or an employee of the Government or of the Railway Administration who prior to the first day of April, 1944—

(*a*) resigned his office, post or employment for the purpose of rendering military service; and

(*b*) within a reasonable period after his resignation actually enlisted and entered military service, or was, on presenting himself for military service, rejected on medical or other grounds,

may be re-admitted to the office, post or employment which he so resigned or to any other office, post or employment for which he is suitable if he makes written application to the head of the department in which he was employed within six months after his discharge or rejection from military service or the commencement of the Act, whichever date may be the later. The scale of salary or wages applicable to him may not be lower than that which applied when he resigned.

South-West Africa.—No. 28 Amending the South-West Africa Affairs Act, 1922, provides that any Act of Parliament or proclamation by the Governor-General passed or issued after the first day of October, 1922, which is in force or may come into operation in the mandated territory, shall, as long as and to the extent in which it is in force in that territory, be in force also in the port and settlement of Walvis Bay, unless the Act or proclamation otherwise provides.

Attorneys.—No. 31 contains provisions designed to facilitate the admission and enrolment, as attorneys, of persons who have rendered military service during the war, by reducing the terms for which they are required to be bound by, and serve under, articles.

Death Duties.—The Death Duties Act, 1922, has been amended in certain respects by No. 33. The estate duty now chargeable upon each pound of the dutiable amount is three-ten-thousandths of a pound for every completed one hundred pounds or part thereof contained in the dutiable amount, subject to a maximum rate of six shillings and eight pence upon each pound. From the amount of duty determined at the rate so calculated a rebate of three hundred pounds is deducted. Succession duty is charged at the rate of 3% on the dutiable amount of succession where the successor is the direct descendant or ascendant of the predecessor, 5% where he is the brother or sister, 8% where he is the descendant of the brother or sister, and 12% where he is otherwise related to the predecessor or is a stranger in blood or is an institution. This, however, is qualified by a proviso to the effect that (*a*) so much of any dutiable succession as exceeds ten thousand pounds in value shall be subject to an additional duty of 1% on the amount of such excess; (*b*) where the successor is married to a person related by blood to the predecessor, the rate of duty chargeable shall be determined by the relationship of whichsoever of the two spouses is more nearly related to the predecessor; and, (*c*) where the predecessor was married to a person related by blood to the successor, the rate of duty chargeable shall be determined by the relationship of the successor to whichsoever of the predecessor and his or her spouse was more nearly related to the successor.

Apprenticeship.—No. 37 regulates the training and employment of apprentices and minors in certain trades. It does not apply in respect of registered students of a university or technical college, or in respect of work performed in connection with any educational institution maintained wholly or partly from public funds, as part of the education or training of the persons performing it, or in respect of any person who, having obtained a diploma or degree approved by the Minister of Labour, works in a designated trade in order to obtain practical experience, or in respect of employment or training in agricultural pursuits, or in domestic work in private households, or in the defence forces of the Union.

Under the Act a National Apprenticeship Board is established, consisting of eleven members, including the Minister of Labour, representing the Government Service, the interests of prospective apprentices, employers and employees. Appointments are made by the Minister who receives the advice of and may act upon the recommendation of the Board. In addition, apprenticeship committees may be established by the Minister in respect of any industry and area and shall consist of not less than five members. These committees make recommendations to the Minister, investigate disputes arising out of contracts of apprenticeship and perform such other duties and functions as may be prescribed. There is a registrar of apprenticeship who registers contracts of apprenticeship and carries out, in consultation with the committees, such other functions as are assigned to him. The Minister appoints inspectors with powers of entry, examination and enquiry, for the purpose of ascertaining whether the provisions of the Act are being complied with.

Soldiers and War Workers' Employment.—Under No. 40, a Soldiers and War Workers Employment Board is established which appoints sub-committees from among its members to carry out investigations and report to the Board on matters concerning the employment of persons who have rendered war service.

In general, an employer shall, as from a date notified to him, reinstate a former employee in the occupation in which he was employed at the date when he relinquished his employment for the purpose of rendering military service, or in a similar occupation, under conditions which shall be not less favourable to him than those which were applicable to him at that time, and which shall give effect to any improvement in conditions of employment which may since that time have been prescribed by law or wage-regulating measure, in so far as the improvement is applicable in his case.

The contract of apprenticeship of an apprentice who was a former employee shall, subject to any right to terminate or cancel the contract, be regarded as suspended from the date on which the apprentice relinquished his employment for the purpose of rendering military service, and shall come into operation again as from a date notified to the employer, which shall be a date not more than six months after the discharge of the former employee from any force or mercantile marine with which he was serving.

Fishing Industry Development.—No. 44 was passed for the purpose of promoting the development of the fishing industry within the Union. A body corporate called the Fisheries Development Corporation was established with the following objects:—(*a*) to establish and manage or assist in the establishment or management of schemes for the promotion, regulation or better organisation of the catching or sale of fish, and to finance or assist in the financing of such schemes; (*b*) to carry on the business of buying, selling, processing and marketing of fish, fish products and sea-weed, of manufacturing fish products and products wholly or partly derived from sea-weed, and of fish farming; (*c*) with the approval of the Governor-General to take or otherwise acquire and hold shares or stock or securities in any company engaged in catching fish or having objects wholly or in part similar to those described in paragraph (*b*); and (*d*) with the approval of the Minister of Economic Development, to establish and carry on or to assist in the establishment or carrying on of mutual benefit and medical benefit societies, sporting and entertainment societies, social clubs, townships, housing utility companies, home ownership schemes, social and health services, pension and provident funds, stores, hospitals, hostels, restaurants and any other similar undertakings which may seem to the corporation beneficial or capable of being beneficial to fishermen registered under the Act or to employees of the Corporation.

The Governor-General may proclaim controlled areas within which no person may fish unless he is registered in respect of the particular controlled area in question.

Nursing.—Under No. 45 the South African Nursing Council was established consisting of twenty-four members. The Council has powers to keep registers of nurses, to prescribe curricula, appoint examiners, conduct examinations, and grant certificates to nurses, to approve of schools of nursing where nurses and midwives are trained, to prescribe fees payable by nurses and to prescribe uniforms, badges or other distinguishing devices to be worn by nurses and midwives when on duty.

The Act also created a body corporate styled "The South African Nursing Association" whose objects are (*a*) to provide an efficient and adequate nursing and midwifery service for the Union; (*b*) to raise the status, maintain the integrity and promote the interests of the nursing and midwifery professions; (*c*) to perform any acts necessary or incidental to the attainment of these objects.

Magistrates' Courts.—No. 32 consists of five parts divided into eighteen chapters dealing with the establishment and nature of the courts, judicial officers,

officers of the courts, practitioners, rules of court, civil jurisdiction, witnesses and evidence, recovery of small debts, execution, costs, appeal and review, criminal jurisdiction, remittal, review as of course, execution of sentences, criminal appeals, offences, and general and supplementary provisions.

The most important departure from the hitherto existing law is the abolition of civil imprisonment.

1945

THE Union Parliament passed 48 Acts during the year 1945. Those mentioned here are likely to be of general interest.

Publication of Banns.—No. 13 provides that if a party to an intended marriage belongs to a religious denomination or faith according to the tenets or practices of which the principal public divine services are held weekly on a day other than a Sunday, the banns required by law to be published in the area in which such party resides, may, in lieu of being published during divine service on Sundays, be published—(*a*) in the ordinary manner at three such public divine services preceding the marriage, held at weekly intervals in a church or other building habitually used for public worship in that area; or (*b*) by posting them up for a period covering three successive weeks preceding the marriage, in a conspicuous place in such church or other building. The Act applies also in the mandated territory of South-West Africa.

Insurance.—The Insurance Act, 1943, was amended by No. 19 in the following respects:—

The principal Act had a twofold effect upon an overseas insurance company established for less than twenty years, namely, (*a*) if it was not carrying on business in the Union prior to the commencement of that Act it was debarred from commencing business in the Union, and (*b*) if it was carrying on a particular class of business in the Union prior to the commencement of that Act it was debarred from expanding its business in the Union by undertaking further classes of insurance business. The amending Act retained the restriction under (*a*) but abolished that under (*b*).

An insurance company frequently finds it essential to reinsure parts of its risks in the Union, and such reinsurances may be arranged either within or outside the Union. The intention underlying the principal Act was that where a reinsurance was arranged in the Union it should be treated as a liability of the reinsurer, but that where the reinsurance was arranged outside the Union, it should not be treated as a liability of the reinsurer, the reason being that where the reinsurance was arranged outside the Union the reinsurer did not as a rule himself carry on business in the Union, and it was therefore difficult to require him to comply with the Act. It may happen, however, that a reinsurance is arranged outside the Union with a reinsurer who carries on business in the Union, and the wording of the principal Act compelled such a reinsurer to include the liability thus undertaken in the statement of liabilities arising under his business in the Union. The resultant discrimination against a reinsurer who carries on business in the Union, compared with a reinsurer who does not, appeared to be anomalous. A further anomaly arose in that while the liability in question had to be included in the statement of liabilities arising under Union business, it was not deemed to be a liability under Union business for other purposes of the Act, namely, the requirement that an insurer must maintain in the Union assets equal in value to the amount of his liabilities under Union business. The statement of liabilities was thus robbed of one of its principal purposes, namely, to enable the Registrar of Insurance to satisfy himself that the financial provisions of the Act were being carried into effect.

The Act was therefore amended in such a way as to express clearly its original intention, to remove the discrimination against a reinsurer who carries on business in the Union, as compared with a reinsurer who does not, and to enable the

Registrar to ascertain whether or not the provisions of the Act are being fulfilled. Other amendments are not of sufficient general interest to be mentioned here.

Standards.—An Act was passed to promote the standardisation of commodities and of the manufacture, production, processing or treatment of commodities, for that purpose to establish a South African Bureau of Standards, to define the objects for which it was established and to prescribe the manner in which it shall be managed and controlled.

The Bureau is managed and controlled by a Council which is a body corporate and consists of five members appointed by the Minister of Economic Development. The Council may declare standardisation marks in respect of particular commodities, or of the manufacture, production, processing or treatment of such commodities, and may, after consultation with the South African Standards Institution, abolish or amend any such marks. Compulsory standard specifications for commodities are laid down by the Minister on the recommendation of the Council. Inspectors with powers of entry, search and examination are appointed by the Minister.

The State, the Council and members thereof are protected against claims in respect of commodities which comply or are alleged to comply with standard specifications.

Natives.—The consolidation, without amendments, of the law relating to Natives in or near urban areas was undertaken, and an Act (No. 43) was passed entitled " Act to consolidate the laws in force in the Union which provide for improved conditions of residence for Natives in or near urban areas and the better administration of native affairs in such areas, for the registration and better control of contracts of service with Natives in certain areas and the regulation of the ingress of Natives into, and their residence in, such areas; for the exemption of coloured persons from the operation of pass laws; for the restriction and regulation of the possession and use of kaffir beer and other intoxicating liquor by Natives in certain areas and for other incidental matters."

Native Education.—For the financing of Native education an Act (No. 29) was passed providing that there shall from time to time be paid to each of the Provinces from the Consolidated Revenue Fund such sums of money in respect of Native education as Parliament may appropriate for the purpose. The Minister of Education was given the power to appoint a Union Advisory Board on Native Education to advise the Union Government and the Administrations of the Provinces on matters relating to Native education and the maintenance, extension and improvement of educational facilities for Natives.

Scientific and Industrial Research.—An Act (No. 33) was passed for the purpose of promoting scientific and industrial research, and for that purpose to establish a South African Council for Scientific and Industrial Research. The Council is a body corporate, consists of a president and nine other members appointed by the Governor-General from persons distinguished in science and industry and has charge of all matters affecting scientific and industrial research in the Union assigned to it by the Minister. The rights in inventions, discoveries and improvements made by the Council are vested in the Council, but any person may request it to carry out investigations with the specific object of discovery, invention or improvement in respect of any apparatus, machine or process in which case the rights therein vest either in the Council or the person requesting the investigation as may be provided by written agreement between the parties.

Registration for Employment.—The Minister of Labour may declare this Act (No. 34) to be applicable to any area in respect of any specified class of workseeker within that area. Every workseeker in respect of whom, and who is either temporarily or permanently resident in an area to which, the provisions of the Act have been applied, and who at the date of such application has been unemployed for a continuous period of more than one week, or who thereafter

becomes unemployed and remains unemployed for a continuous period of more than one week, shall within seven days from the date of the application of the provisions of the Act to the said area, or, as the case may be, within seven days of the expiration of the first period of one week during which he has been continuously unemployed, furnish to the employment officer appointed for the said area, his name and address and such other particulars as may be prescribed by regulation. This, however, does not apply to a workseeker who is registered as a contributor to an unemployment benefit fund or as a member of a trade union. A registration card is issued to a person who has thus furnished particulars. Within seven days of obtaining employment for a continuous period of at least one week, the workseeker must notify the employment officer and return his registration card. While a workseeker remains unemployed he must notify the employment officer, on or before the tenth day of each month succeeding the month during which he furnished the required particulars, that he is still unemployed. The employer of a workseeker in respect of whom the provisions of the Act apply must notify the employment officer within three working days of the engagement or discharge of a workseeker that he has been engaged or discharged. The Act does not apply to employers in respect of the employment of any person in agriculture or in domestic service in private households.

The Minister has power also to establish for any area a juvenile affairs board to perform duties and exercise functions in relation to matters affecting the employment, training, welfare and supervision of juvenile workseekers within that area. The provisions of the Act apply to any area in respect of the specified class of juvenile workseeker for which a board has been established.

Matrimonial Causes Jurisdiction.—The provisions of No. 35 are similar to those of the Matrimonial Causes (War Marriages) Act, 1944 (7 & 8 Geo. 6. Ch. 43), of the United Kingdom, and confer jurisdiction on the Supreme Court of South Africa and the High Court of South-West Africa in respect of certain war marriages where the husband was at the time of the marriage domiciled outside the Union and South-West Africa and the wife was, immediately before the marriage, domiciled in the Union or the mandated territory.

Financial Relations Between the Union and the Several Provinces Thereof.—An Act (No. 38) was passed to consolidate and amend the laws which regulate the financial relations between the Union and the Provinces and which provide for the transfer of certain taxation and additional legislative powers to provincial councils. The Act provides for a new basis of financial relations. Under the new system, assigned and transferred revenue reverts to the Consolidated Revenue Fund; the former special subsidies and appropriations by Parliament, except as regards Public Health refunds, have fallen away; and statistics of school attendance have ceased to be used as basis for calculation of subsidy. Under the new system, grants will continue to be made for Native Education (including feeding of children in Native schools) from the Native Education vote in terms of the provisions contained in the Native Education Finance Act, 1945, which has been mentioned above; grants will continue to be made from the National Road Fund for construction and maintenance of national roads; subsidies payable under the Public Health Act, 1919, will continue to be paid to the Provinces; special subsidies will be paid to the Cape, Orange Free State and Natal Provinces; and a subsidy of 50% (in certain cases 33⅓%) of "nett expenditure" will be paid to each Province. Nett expenditure includes expenditure by rural local authorities in carrying out provincial functions. It also includes expenditure from current revenue used for capital purposes, subject to the approval of the Treasury. On the other hand it excludes expenditure on Native education and national roads, the whole of which is a liability of the Central Government. It also excludes the expenditure which is subsidised under the Public Health Act and certain special expenditure covered by special grants. The Provinces are, therefore, left a relatively free hand in expenditure

provided they find a substantial portion of the funds. In order to enable them to raise the necessary revenue for expanding services, particularly hospital services, their powers of taxation have been increased. They have now a limited power to raise a hospital contribution from Natives, and also to levy an income tax on Natives whose incomes are taxable in terms of the Income Tax Act of the Union. A provincial council is now also empowered to vary the percentage of 80% of Union income tax which was the basis on which provincial income tax was levied.

1946

Of the 60 Acts passed by the Union Parliament during the year 1946, the following would appear to be of general interest:—

Coloured Persons Settlement.—No. 7 repealed the Coloured Persons Settlement Areas (Cape) Act, 1930, which was applicable only to the Cape Province, and now makes provision for the establishment of settlement areas for coloured persons anywhere in the Union. " Coloured person " is defined as meaning any person other than a European, an Asiatic as defined by s. 11 of the Asiatics (Land and Trading) Amendment Act (Transvaal), 1919, or a Native as defined by s. 35 of the Native Administration Act, 1927. No person other than the State or a coloured person may, without written permission of the Minister of Lands, acquire or hold any right or interest in land situated within a coloured persons' settlement. Nor may any person without such permission reside in such a settlement, whether in a house or otherwise, unless he is the lessee, probationary lessee, or owner of land situated therein, or unless he or she is the husband or wife, as the case may be, or the daughter or minor son of such lessee, probationary lessee or owner. No licence may be granted in any such settlement for the sale of intoxicating liquor or methylated spirits.

Carriage by Air.—No. 17 gives effect to the International Convention for the unification of certain rules relating to international carriage by air, signed at Warsaw on the 12th October, 1929, and makes provision for applying the rules contained in that Convention, subject to exceptions, adaptations and modifications, to carriage by air which is not international carriage within the meaning of the Convention.

Wool.—No. 19 approves of an agreement entered into between the Governments of the United Kingdom, Australia, New Zealand and the Union of South Africa relating to the disposal of accumulated stocks of wool purchased by the first-mentioned Government from the other countries mentioned. It provides for the carrying out of the agreement on the part of the Union of South Africa and for that purpose establishes a South African Wool Disposals Organisation. It also imposes a levy on wool and creates a South African Wool Board. The levy is imposed on all wool produced, sold, processed in or exported from the Union. The objects of the Wool Board are to promote the wool industry in the Union, to promote and undertake research in the production of wool and in matters incidental thereto and to take or aid such steps, including propaganda, as may be calculated to stimulate the consumption of wool and woollen fabrics.

South Africa Act.—By virtue of No. 21, Members of Parliament now receive an annual allowance of one thousand pounds instead of seven hundred pounds; the Leader of the Opposition receives an additional allowance of one thousand pounds; the President of the Senate receives a salary of two thousand pounds and the Speaker of the House of Assembly a salary of two thousand five hundred pounds per annum.

Deep Level Mining Research Institute.—The Governor-General is given power in No. 27 to establish a corporate body known as the Deep Level Mining Research Institute, the objects of which are to promote and to undertake investigations and research in deep level mining in the Union and in matters incidental thereto, with the object of inventing, discovering, improving, developing or adapting such methods of mining, and such processes and apparatus, as may be calculated

to extend the limits to which ore may be profitably exploited, and to safeguard the health and safety of persons engaged in such exploitation. The Institute is managed and controlled by a Board of Management consisting of nine members.

Asiatic Land Tenure and Indian Representation.—No. 28 was passed in order to " impose restrictions with regard to the acquisition and occupation of fixed property in the Province of Natal; to amend the law relating to the ownership and occupation of fixed property in the Province of Transvaal; to make special provision for the representation in Parliament of Indians in the Provinces of Natal and Transvaal, and for the representation in the Provincial Council of Natal, of Indians in that province; and to provide for other incidental matters."

No person who is not an Asiatic may, except under permit, enter into any agreement with an Asiatic, in terms of which any party to the agreement acquires or purports to acquire any fixed property in the Province of Natal (other than property in an exempted area) and no Asiatic may, except under permit, enter into any such agreement with a person who is not an Asiatic.

No European may occupy and no person may allow any European to occupy any land or any premises in the Province of Natal (other than land or premises in an exempted area) which was not lawfully occupied by a person who is not an Asiatic, and no Asiatic may occupy and no person may allow any Asiatic to occupy any such land or premises which was not lawfully occupied by an Asiatic, except under permit. A similar provision is applicable to the Transvaal, but does not apply in respect of any land or premises in any area within that Province wherein an Asiatic may lawfully acquire the ownership of land.

No foreign company and no company in which a foreign company holds a controlling interest may hold any fixed property in the Province of Natal, acquired by it in pursuance of any agreement entered into on or after 21st January, 1946, other than property in an exempted area, unless it has a place of business in the Union.

Exempted areas are described in the Schedule to the Act, and others may be proclaimed by the Governor-General. They are areas situated in the Province of Natal to which and in respect of which the above provisions relating to that Province do not apply.

In exercising his power to grant permits, the Minister of the Interior may take into consideration the relative needs of any race or racial group concerned, in regard to housing, the amenities of life and educational and recreational facilities, the situation of the fixed property, land or premises in relation to other property, land or premises owned or occupied by persons of any race or racial group, and any other matters which in his opinion are relevant to the question whether or not any permit should be granted.

The Act establishes a Land Tenure Advisory Board consisting of not more than five members, appointed by the Minister, of whom two may be Asiatics.

The Minister may appoint inspectors for the purpose of ascertaining whether the provisions of the Act are being complied with. No inspector, interpreter or member of the South African Police may disclose any information in relation to the financial or business affairs of any person, firm or business, acquired in the exercise of his powers or the performance of his duties, to any person except the Minister, a member of the Board or an officer in the public service for the purposes of the performance of any duty in connection with any matter investigated, or for the purpose of the institution or conduct of legal proceedings.

No provision discriminating against any race or racial group may be inserted in the title deed of any land in an exempted area.

Chapter II of the Act deals with Indian representation. Indians in the Provinces of Natal and Transvaal may be represented in the Senate by two Senators, in the House of Assembly by three members and in the Provincial Council of Natal by two members.

Every male Indian who is a Union national of or over 21 years of age and

is not subject to any disqualifications, and has passed the sixth standard in a Government or provincial school in the Union or an examination recognised by the Governor-General as equivalent thereto, and either has an income of not less than eighty-four pounds per annum or is the owner of immovable property within his electoral division to the value of not less than two hundred and fifty pounds, over and above any mortgages thereon, is entitled to be registered as a voter in the electoral division in which he has resided for not less than six months.

One of the Senators representing the Indians may be nominated by the Governor-General on the ground mainly of his thorough acquaintance, by reason of his official experience or otherwise, with the reasonable wants and wishes of Indians in the Provinces of Natal and Transvaal, and one may be elected. The Senators hold their seats for five years, notwithstanding any dissolution of the Senate. The qualifications of Senators are those prescribed by the South Africa Act.

Members elected to the House of Assembly hold their seats for a period of five years, unless the House is dissolved before the expiry of that period. Their qualifications are also those prescribed for members by the South Africa Act.

Any person who is qualified to vote for the election of members of the Provincial Council of Natal, and who has during the period of ten years immediately preceding the nomination day, resided in Natal for not less than two years, is qualified to be elected as a member of the Council.

Disability Grants.—Under No. 36, a disability grant may be paid to any white person, any coloured person, any Indian and any Native who has attained the age of sixteen years, is domiciled in the Union, is resident in the Union at the time of applying for the grant, has been a resident Union national for five years or a foreigner resident for 25 years in the Union and whose physical or mental disabilities of a permanent nature render him incapable of deriving from any employment or occupation the means required to enable him to provide adequately for his own maintenance. Persons who *inter alia* receive pensions or are compulsorily detained and maintained at the public expense in any State institution and are likely to be so detained for a period exceeding three months, or who are required by any law to attend any school, are not qualified to receive a grant.

Admission of Advocates.—Under the Admission of Advocates Act, 1921, a Cambridge law degree did not entitle the holder thereof, who was a British subject, to be enrolled as advocate in the Union. The amending Act (No. 39) entitles the holder of the degree of LL.D., LL.B., or the degree of Bachelor of Arts with honours in law of the University of Cambridge to be so enrolled, provided he complies in all other respects with the law in force within the area of jurisdiction of a provincial or local division of the Supreme Court of South Africa governing the admission of advocates.

Aviation Amendment.—No. 41 gives effect to agreements relating to International Civil Aviation drawn up at Chicago on 7th December, 1944, and amends in certain respects the Aviation Act, 1923.

Soil Conservation.—No. 45 establishes a Soil Conservation Board consisting of six heads of State Departments and Sub-Departments and nine other persons appointed by the Governor-General, of whom five shall be *bona fide* farmers appointed from a panel of ten names submitted by the South African Agricultural Union, and four shall be appointed on account of their knowledge of or experience in soil conservation or reclamation.

The majority of owners of land situated within a defined area may apply to the Minister of Agriculture and Forestry for the declaration of that area as a soil conservation district, in respect of which there shall be established district committees appointed by the Minister, of whom at least two-thirds must be persons *bona fide* carrying on farming operations within the soil conservation district concerned.

It is the function of the Board and the committees to prepare and submit to the Minister schemes for soil conservation and to ensure the proper carrying out of schemes already in operation.

The costs of any soil conservation works constructed or maintained by the State in accordance with a scheme may, in the discretion of the Minister, be charged entirely to the State or entirely to the owner of the land which, in the opinion of the Minister, is beneficially affected by the works, or partly to the State and partly to such owner. The Governor-General may, subject to payment of compensation, expropriate any land required for the prevention of erosion or for the purpose of reclamation.

Electoral Laws.—An Act (No. 46) was passed consolidating without amending the electoral laws.

Silicosis.—No. 47 contains 106 sections and provides for the repeal of the Miners' Phthisis Acts Consolidation Act, 1925, as amended from time to time; it covers a wider field than the repealed Act, mainly in that it extends the definition of silicosis so as to include diseases of the lungs caused by other mineral dust than silica dust, e.g. anthracosis (caused by coal dust), siderosis (caused by iron ore dust) and asbestosis (caused by asbestos dust) and a combination of two or more such diseases, and in that not only the large gold mines but also the smaller gold mines and mines in which any other mineral than gold is mined can be called upon to provide for compensation for persons who have contracted a disease of the lungs in working those mines.

Public Health Amendment.—The most important respect in which No. 51 amends the Public Health Act, 1919, is the establishment of a National Health Council consisting of about sixty-three persons representing the State, provincial and local authorities, the medical, dental and nursing professions, midwives, chemists and druggists, the veterinary profession, commerce, industry, mines, labour, charitable organisations, women's societies, universities possessing medical faculties, and other organisations which may be proclaimed. The Governor-General may appoint persons having special knowledge of the health needs of the Native, coloured and Indian populations of the Union as a whole. The Act also provides for the establishment of a Central Health Services and Hospitals Co-ordinating Council consisting of eight members.

Unemployment Insurance.—No. 53 calls into being a comprehensive scheme for the payment of benefits to certain unemployed persons, and for that purpose establishes an Unemployment Insurance Fund to which employers, employees and the State contribute. The scheme is not applicable to persons receiving more than seven hundred and fifty pounds a year, to domestic servants, persons employed in agriculture and forestry, public servants, employees of provincial administrations, officers of Parliament and other defined classes of persons.

1947

Of the 56 Acts passed by the Union Parliament during the year 1947, 27 were amending Acts and 13 dealt mainly with fiscal measures. Those mentioned here are likely to be of more general interest.

Stock Exchanges Control.—No. 7 provides for the regulation and control of stock exchanges and of the business of stock-brokers and dealers in stocks or shares, and of certain lenders of money against the security of stocks or shares. It repeals the Stock and Share Dealings Regulation Act, 1909, of the Transvaal and the Stock or Share Brokers' Admission Law, 1888, of Natal.

No person may carry on the business of (*a*) a stock exchange, except under a stock exchange licence; (*b*) a stockbroker or a dealer in stocks or shares, unless he is a member of a licensed stock exchange or the holder of a stock-broker's licence; or, a carrier against shares, unless he holds a licence for that purpose, or is a member of a licensed stock exchange or the holder of a stock-broker's licence.

Any association of not less than twenty persons may apply to the Minister of Finance for a certificate authorising a receiver of revenue to issue to the association a licence to carry on the business of a stock exchange. For purposes of this provision a partnership is reckoned as one person. The Minister may grant the certificate if he is satisfied *inter alia* that at least twenty members of the association will carry on business mainly as stock-brokers independently of and in competition with each other and that adequate sureties or security are provided by each member for the discharge of liabilities arising out of stock and share transactions.

There is a board for the hearing of appeals against decisions of the committee of a licensed stock exchange terminating the membership of any person or deferring or refusing any application for the inclusion in, or removing any stocks or shares or omitting the price of any stocks or shares from, a list of the stocks and shares which may be dealt in on the stock exchange. The board consists of an advocate of at least ten years' standing, who is chairman, an accountant of not less than ten years' standing and a person selected for his knowledge of stock exchange matters in the Union.

If any stock-broker buys any stocks or shares on behalf of any person, that person must, not later than fourteen days after the purchase, pay to the stock-broker the amount payable by him in respect of the stocks and shares, or deposit with the stock-broker such stocks or shares as (either alone or together with any stocks or shares so bought which may be held by the stock-broker in respect of the amount owing to him by the purchaser in pursuance of the purchase) may be necessary to provide the minimum cover in respect of the said amount. "Minimum cover" in relation to any amount means stocks or shares quoted in the lists issued under the authority of a stock exchange in the Union which are of a value of not less than that amount, provided that for the purposes of the definition the value of stocks of the Union Government and of municipalities in the Union, and of stocks or shares issued by any statutory corporation designated by the Minister, shall be deemed to be ninety per cent., and the value of any other stocks and shares fifty per cent. of the amount they would realise at the buyer's price thereof last so quoted before the date on which the cover is provided. The provisions relating to minimum cover do not apply if the stock-broker and the purchaser, seller or debtor concerned are members of a stock exchange in the Union or of a stock exchange outside the Union recognised by the Minister. Contractual obligations to pay, deposit, deliver or cede before the expiry of the period laid down by the Act are not rendered ineffective by the provisions of the Act.

Unit Trusts Control.—No. 18 regulates and controls the promotion, carrying on and management of certain trust schemes relating to stocks or shares and prohibits analogous schemes relating to other assets. Generally speaking, no company other than a company which (*a*) is registered as a public company, (*b*) has a paid-up share capital of not less than twenty-five thousand pounds actually employed or immediately available for employment in its business, and (*c*) has been formed solely or principally for the purpose of promoting, carrying on or managing unit trust schemes and issuing unit certificates thereunder, and confines its activities solely or principally to those purposes may be or remain registered as a management company under the Act.

Orchards and Cultivated Plants.—No. 26 was passed empowering the Governor-General to proclaim areas within which it will be compulsory for owners and occupiers of land to cleanse orchards and cultivated plants of insect pests and plant diseases.

Welfare Organisations.—No. 40 provides for the establishment of a National Welfare Organisations Board consisting of twenty-four members, six of whom must be trained social welfare workers, six selected from among persons who are engaged in voluntary social welfare work in the country districts, and twelve

from among persons engaged in such work in the cities. It is the duty of the Board to regulate the registration of welfare organisations and to advise and report to the responsible Minister on the administration and operation of the Act. The Act provides also for the establishment of local welfare boards.

Cable and Wireless.—No. 43 provides for the acquisition by the Government of the Union of the assets of Cable and Wireless of South Africa Limited, and for the transfer to the service of the Government of the employees of that company.

Liquid Fuel and Oil.—Under No. 49 a Liquid Fuel and Oil Industry Advisory Board is established to advise the Minister of Economic Development on all matters relating to the manufacture, disposal, sale and use of liquid fuel and oil. No person may manufacture liquid fuel or oil unless he is the holder of a licence.

Natural Resources Development.—In order to promote the better and more effectively co-ordinated exploitation, development and use of the natural resources of the Union, No. 51 was passed establishing a Natural Resources Development Council consisting of not less than nine and not more than eleven members appointed by the Governor-General.

South African Tourist Corporation.—No. 54 provides for the establishment of a corporation the object of which is to develop the tourist industry by encouraging persons to visit the Union from elsewhere and by encouraging the development and improvement of travel services to and within, and of accommodation for travellers within, the Union.

2. CAPE PROVINCE.

[*Contributed by* A. J. Pienaar, Esq., K.C.]

The Cape Provincial Council in its two Sessions in 1947 was occupied mainly with finance, the chief object being to find additional revenue to meet the increased expenditure on social services and better salaries and pensions for teachers. Consequently of the fifteen Ordinances passed there was very little of general legislative interest.

Fishing.—No. 4 amends the Nature Reserves Ordinance (No. 18 of 1939) by forbidding the introduction of a fishing net into a nature reserve. There is only one nature reserve established under the Ordinance, namely, the one commencing some distance South of Simonstown and running to Cape Point. The promontory is bound on two sides by the Ocean. Fishing boats based on coves will have to confine their operations to line fishing. By Act 10 of 1940 sea fishing was transferred from the provinces to the central government. Consequently all previous legislation dealing with sea fishing became superfluous. A consolidating measure confined to inland fishing and repealing all previous ordinances on the subject was thereupon passed—viz. Ord. No. 15 of 1941, a review of which appeared in this journal in 1942 (Vol. xxvi, p. 86).

The Provincial Council has now in its wisdom repealed this Ordinance and in its place again passed another to amend and consolidate the law, although in the interval there have been no amendments which now require to be incorporated in a consolidating measure. The changes brought about by the present Ordinance are mainly administrative and formal and do not require detailed comment.

Municipal Councils.—No. 5 amends the Cape Municipal Ordinance (No. 10 of 1912) by making it necessary for a Municipal Council to obtain the consent of the administrator before it exercises its powers of expropriation.

Motor Vehicles.—No. 7 again amends the parent Ordinance, the Motor Vehicles Ordinance, No. 15 of 1938, which has undergone many alterations since

its commencement, especially as the result of an overhaul in 1944. The two features of the Ordinance under review which may be mentioned are (1) a graduated scale of penalties for persons who are in arrear with licence fees, the penalty ranging from 30% per annum for a licence fee not exceeding £10 down to 12% for a £50 fee. It is calculated monthly and will not exceed 100% of the fee, and (2) a provision enabling a person to obtain a driver's licence to drive a vehicle especially adapted, constructed or equipped to overcome some physical defect, which prevents him from obtaining an ordinary licence.

Education.—No. 8 is the annual amendment of the Education Ordinance (No. 5 of 1921) and its ancillaries. It makes new provisions for the salaries of superintendents, matrons and assistant matrons of school boarding departments and for the pensions of teachers in schools for natives.

Commissions of Inquiry.—By Ord. No. 1 of 1945 power was given to the Administrator to appoint a Commission of Enquiry into any matter of public concern. The first Commission was appointed to investigate certain matters connected with the municipality of the City of Cape Town. After many sittings and the expenditure of much money the Commission broke down before it had completed its task. The reason for this was that one of its members became so seriously ill that he was unable to resume his seat. No. 9 as well as making some minor alterations, e.g. in regard to the payment of costs, now provides that if a vacancy occurs the Administrator may direct the remaining members to continue alone or fill the vacancy.

3. NATAL.

[*It is hoped to publish the review in the next issue.*]

4. ORANGE FREE STATE.

[*Contributed by* F. W. A. Gray, Esq.]

Twenty Ordinances were passed by the Orange Free State Provincial Council in 1947. Three were Appropriation Ordinances and sixteen, Ordinances containing amendments of a purely routine character. The remaining Ordinance contains new legislation in regard to the establishment of townships and hamlets and is obviously designed to conform to modern ideas of town-planning. It was probably primarily designed to regulate the establishment and growth of towns on the new Free State goldfields and surrounding districts and to prevent the haphazard development with the many problems it has given birth to in later years, which has been a feature of other towns in South Africa which have grown rapidly as the result of the development of mineral wealth. Salient features of the Ordinance mentioned will be referred below.

Town Planning.—The purpose of the Townships and Hamlets Ordinance No. 20. Ordinance is expressed to be, (*a*) to provide for the control and regulation of the establishment of new townships and extensions of existing townships, (*b*) to provide for the co-ordinated and harmonious development of existing townships, and, if necessary, the relayout of certain areas, in order to promote health, safety, order, amenity, convenience and general welfare as well as efficiency and economy in the process of such development, (*c*) to provide for the control of the layout, sale, lease or disposal of any one or more small areas of land deemed by the Administrator to form, or likely to form, the nucleus of a future township or extension of an existing township, (*d*) to provide for the control of the subdivision of land or erven in existing or approved townships, (*e*) to provide for the regulation and restriction of buildings on premises, (*f*) to provide for the reservation of ground for local government or for other public purposes in an approved or amended scheme of town planning, and (*g*) to provide

for the prohibition of the transfer of ground which forms part of an approved or amended scheme of town planning where a legal obligation has not been complied with. The Ordinance provides for the constitution of a Townships Board consisting of the Surveyor-General (who shall be Chairman), the Registrar of Deeds and an officer of the Provincial Administration appointed by the Administrator, who shall be *ex officio* members of the Board, one member nominated by the Administrator on the recommendation of the Municipal Association of the Orange Free State, and further members not exceeding three in number appointed by the Administrator, one of whom on account of his efficiency and knowledge in the sphere of, and interest in, town planning, and regional planning, shall be especially qualified for membership of the Board; the Ordinance requires the Board, in addition to performing such duties as may be prescribed, to report on matters arising out of, or incidental to, the administration of the Ordinance or the Regulations thereunder, or any other matter which the Administrator may refer to it. The Ordinance provides that it shall not be lawful for any person to establish a township except in accordance with its provisions. The owner of any land who proposes to establish a township thereon is required to make application in writing for permission to do so, to the Administrator, who must refer the application to the Board, which, after due publication of a notice of such application in the Gazette and in the newspaper prescribed, is to fix a day and time for the consideration of the application and the hearing of any objections thereto, and the hearing of evidence; the Board may recommend to the Administrator that the application be granted subject to such conditions as it may deem advisable, or that the application be refused, or that the decision on the application, either in whole or in part, be postponed; and the Administrator is given the power, upon receipt of the Board's report and recommendation, to grant or refuse the application or postpone the decision thereon, either in whole or in part, provided that, if he grant the application, he may make such modifications of the conditions recommended by the Board as he may think fit after further reference to the Board. The Ordinance sets forth in detail the matters, such as the need or desirability of establishing the projected township, and the suitability of the site, with regard to area, position, water supply, *etc.*, which the Board must consider when enquiring into, and reporting upon, an application referred to it by the Administrator. Not only private owners of land, but also Local Authorities, if they wish to extend townships by the layout, into additional erven, or portions of the townlands or land registered in their names, must make application to the Administrator for permission to do so. If proclaimed land or land held under mining-title is included in the scheme the approval of the Minister of Mines to that portion of the scheme situate within such land must be submitted to the Board by the Local Authority concerned before the recommendation of the Board is submitted to the Administrator. Any person having an interest in any land taken for the purpose of a town-planning scheme or in any land, buildings or improvements injuriously affected by the operation of such a scheme is entitled under the Ordinance to claim compensation from the Local Authority for all loss or damage thereby sustained by him, determinable in the event of dispute, by a Compensation Court whose constitution is laid down in the Ordinance. The Ordinance, which is a comprehensive one, comprising sixty sections, many of them very lengthy, repeals the " Townships Act (No. 15) of 1909 " and the " Township and Hamlet Ordinance No. 6 of 1928," as amended.

5. TRANSVAAL.

[*Contributed by* L. BOTHA, ESQ.]

FOR a proper appreciation of the work done by the Transvaal Provincial Council during the years 1946 and 1947 it would be necessary to refer to the powers of provincial councils as laid down in the South Africa Act, 1909, and various legislative enactments by the Parliament of the Union of South Africa. To attempt a review of provincial legislation on those lines may, however, take the subject beyond the scope of the present review.

1946

DURING 1946 the Provincial Council passed 19 Ordinances, dealing mostly with domestic matters and taxation. The following, however, call for special comment:—

Native Flora Protection.—During 1940 an Ordinance was passed aimed at the better protection of certain indigenous plants. In 1946 it was found necessary to tighten up the control over the export of plants from the Province. A feature of No. 4 is the very extensive powers granted to the Administrator of the Province to grant or refuse to grant permits for export.

Licensing of Bookmakers.—The Provincial Council enjoys legislative power in regard to racing and betting. Various ordinances have been enacted to regulate the various aspects of horse and dog racing and betting in connection therewith. Dog racing will be treated of under the 1947 part of this review.

Legislation on horse racing and betting is a real labyrinth to the uninitiated as legislative enactments are scattered throughout the statute books. In regard to horse racing and betting there are at present three principal ordinances on the statute book, one dating back to 1917. In passing it may be mentioned that a commission was appointed some time age to inquire into all aspects of horse racing and betting and it is hoped that a comprehensive measure will be passed in the near future.

The facilities at present available for betting are two-fold: firstly bets may be placed with bookmakers who may operate on the course or in what is known as Tattersalls, and secondly, betting through the totalizators operating on the course.

In the past any person was able to obtain a licence to operate as a bookmaker but lately bookmakers have, in their own interests, formed themselves into an association, one of whose objects is to guarantee the commitments of its members. This and other reasons prompted the Province to grant a measure of protection, to bookmakers' associations by enacting in No. 8 that no new licences will be issued unless a bookmaker is in the first place a member of a recognised book-makers' association and has, in the second place, obtained a certificate from an so-called Bookmakers' Licensing Committee.

A further innovation effected by this Ordinance is the provision of money prizes by the Province for certain races. During the visit to South Africa of the Royal Family in 1947, a special race was run in Johannesburg and the Province contributed substantially towards the stakes.

Horse Racing and Betting.—The betting side of horse racing was dealt with rather at some length in the foregoing and it is now time to turn to the control of racing itself. The 1946 amendment No. 9 primarily had two objects in view, viz., to ensure racing in accordance with the rules and regulations of the Jockey Club of South Africa and to make provision for the establishment of non-proprietary horse racing clubs.

Entertainments Tax.—Up to 1946 amateur sport was exempted from entertainments tax, but the attempt in No. 11 to tax this type of entertainment was short-lived—the tax was repealed early in 1948.

Public Hospitals.—No. 19 is by far the most important measure passed by he Provincial Council in many years, in fact the Council in an attempt to expedite he passing of the Ordinance, on one occasion sat for nearly twenty-four hours. According to the long title of the measure, it is an Ordinance " to consolidate nd amend the law relating to the establishment, control and maintenance of ospitals, to provide for the free treatment of patients, and to provide for matters ncidental thereto." The long title is a fairly accurate description of the scope f the Ordinance which provides for free hospitalisation of both poor and wealthy, rrespective of their ability to pay.

The Ordinance was not put into operation until the 1st August, 1948, and hen appeared to be a very controversial measure.

1947

During 1947 the Provincial Council passed 16 Ordinances, one of which was not ssented to by the Governor-General-in-Council. With the exception of two neasures, the legislative programme of 1947 was aimed at setting the Province's ouse in order and call for no special comment.

Dog Racing.—In the 1946 part of this review reference was made to dog acing. The question whether or not dog racing should be abolished was a urning one in 1947, resulting in the passing of the Dog Racing Prohibition Ordinance of 1947. This Ordinance was, however, not assented to by the Governor-General-in-Council because the provincial legislature had no power to abolish dog racing.

Motor Vehicles.—The only other measure calling for comment, is the Motor Vehicle Amendment Ordinance, No. 15. This Ordinance brought about two changes in motor vehicle legislation: disabled ex-soldiers who depend on the use of motor transport in order to earn their livelihood are exempted from the payment of motor licensing fees, and secondly, physically disabled persons are enabled to obtain licences to drive specially equipped motor vehicles.

6. NORTHERN RHODESIA.

[*Contributed by* M. W. Dennison, Esq., M.C., *Crown Counsel.*]

1946.

Thirty-four Ordinances were passed during the year, most of which were amendments designed to improve administration under existing legislation.

Of the remainder, the more interesting were:—

Farmers Licensing.—Under No. 30, the Northern Rhodesia Farmers' Union s recognised by the Governor as being representative of the farmers of he Territory. No farmer may export or sell within the Territory any agricultural product unless in possession of a licence. A prescribed fee, not exceeding £2 since amended to £5, No. 5 of 1948), is to be credited to the Farmers' Union, o be expended upon objects included in its constitution, as approved by the Governor.

Central Africa.—Indicative of co-operation between this Territory, Southern Rhodesia and Nyasaland were—

(*a*) No. 2 The Central African Air Services Ordinance, providing for a Central African Air Authority to promote the progress and development of air services in these three territories, to act as licensing authority and to control an airways corporation which serves the three territories; and

(*b*) No. 21, the Archives Ordinance, which provides for the participation of this Territory in the Central African Archives and for the preservation of public Archives.

1947.

FIFTY-ONE Ordinances were enacted during the year 1947.

Prisons.—No. 1, a new Prisons Ordinance, provides for all aspects of prison administration, conditions of service for staff, discipline and prison routine.

Revised Edition of the Laws.—No. 19 is interesting in that it has led to a new Edition, with a new method of binding. Each Ordinance and the subsidiary legislation thereunder has been published in a separate booklet. The various booklets have been bound together in volumes, but in such a manner that any booklet can at any time be removed and replaced. Each year the Attorney-General will cause to be re-published any booklet containing laws which have been substantially amended. Minor amendments will be published every year in consolidated form in a separate booklet, and such amendments will be referred to in the annual index. A new booklet will be added for each new Ordinance enacted. This Ordinance provides a method whereby the laws can be kept permanently up to date, and whereby a modern booklet containing the law on any subject can be made available to the public at any time.

The Rhodesia Court of Appeal.—By No. 12 the constitution of the Rhodesia Court of Appeal has been amended to include Nyasaland.

Printed Publications.—No. 31 provides for information as to printer, publisher, and date of publication to be printed in every book published in the Territory. One copy of every book so published is to be sent to the Chief Archivist, who has, *inter alia*, the duty of maintaining a register of newspapers and periodicals published in the Territory.

Trades and Businesses.—The Trades Licensing Ordinance, 1930, is repealed and replaced by No. 45, which provides for the Licensing of Trades and Businesses, together with the administrative machinery of Licensing Authorities and Appeal Boards.

Emergency Legislation.—By the end of the year most war-time emergency regulations had lapsed, but three subjects were dealt with by Ordinance in Nos. 46, 47 and 48, namely: Control of Supplies, Control of Prices and Charges and Control of Finance.

7. SOUTHERN RHODESIA.

[*Contributed by* R. J. MORTON, ESQ., *Attorney General.*]

1946

The Fifth Parliament, elected in 1939, which had its life prolonged by Act No. 15 of 1942, passed fourteen Public Acts in this year before its dissolution on March 8, 1946. The members returned to the Sixth Parliament represented four political parties, and Sir Godfrey Huggins, leading the strongest party, remained in office at the head of a minority government; consequently the thirty-two Public Acts passed during the remainder of the year were mainly amending Acts acceptable to all parties.

Building.—No. 46 was designed to give temporary powers to alleviate the serious shortage of accommodation created by the unprecedented influx of settlers after the war. It established a National Building and Housing Board, under the chairmanship of a Building Controller, to investigate generally conditions in the building industry, to import and acquire adequate supplies of building materials, to increase the number of persons employed in the building industry, to devise means of reducing building costs and in its own name to acquire land and do construction work.

With minor exceptions, no person is permitted to construct any building without the permission of the Controller. Local authorities, and in certain circumstances the Board, are empowered to erect temporary dwellings (i.e. dwellings

designed for use for a period not exceeding ten years) on land belonging to local authorities and in such construction, subject to safeguards, to disregard local building bye-laws, town planning laws, rights of way and similar servitudes. For new buildings on private land the Minister may authorise contravention of conditions of title. The Governor is given very wide powers to make regulations in regard to matters connected with the shortage of buildings and accommodation; though the Act itself has no fixed period of life, the powers to make new regulations will automatically lapse on December 31, 1949, and all regulations made and in force on that date will then be subject to special review by Parliament.

Accommodation of Natives.—No. 6, passed by the Fifth Parliament before its dissolution, is a bold attempt to solve the problem of providing accommodation for natives in urban areas, where the inflow of new European settlers and growing industries have greatly increased the number of native employees. Under Part I, which will become law in the whole or any part of a local authority area upon its application thereto by the Governor, every employer of a native is compelled to provide at his own expense living accommodation for that native and for one approved wife and her children; strange as the approval of wives may seem, the prevailing system of polygamy amongst natives makes this approval desirable to prevent an accumulation of wives becoming too burdensome to employers. The accommodation provided must be either within a native residential area established by the local authority or the Government or in licensed private premises situated on and occupied by the employer, but normally a wife and children will not be allowed to reside in licensed private premises unless the wife is also employed by the same employer as her husband. Machinery is provided for the official approval of wives, the inspection and licensing of private premises and the renting of accommodation in native residential areas. The enforcement of these provisions must to some extent depend on the successful solution of the building shortage under the powers conferred by No. 46. Other parts of the Act are concerned with the handing over from the Native Department to local authorities of the regulation and control of natives seeking employment in proclaimed areas and the registration and supervision of contracts of service therein.

Native Labour.—The Native Labour Supply Commission Act, No. 36, establishes a statutory commission to recruit, either within or outside the Colony, native labourers for employment in the Colony, to promote satisfactory conditions of employment for native employees within the Colony, to assist in the distribution of labour within the Colony, to promote good relationships between employers and native employees, to promote the training of natives to fit them for employment, to recommend legislation to the Government which it may deem necessary for the proper treatment, use and distribution of native labour, and, finally, to take such steps as it may deem necessary to improve the health and welfare of native employees.

Air Services.—No. 11, for which there is parallel legislation in Northern Rhodesia and Nyasaland, provides for the compulsory licensing of all aircraft used within the Colony for the performance of any service for hire or reward. It establishes conjointly with the two neighbouring territories a Central African Air Authority and a Central African Airways Corporation. The Authority is to promote the progress and development of air services in the three territories, to be the joint licensing body and to exercise general supervision and control over the Corporation. The Corporation, whose capital is jointly subscribed by the three Governments, is to furnish and operate air services locally within the three territories and also regionally to link up with air transport services of other territories, but is given no local monopoly.

Aliens.—No. 32 provides for the control of alien immigration into the Colony. To that end an Aliens Selection Board is established which issues, subject to

certain conditions contained in the Act and to a quota fixed in each year, permanent residence permits to aliens. An unsuccessful applicant for a permanent residence permit may appeal to the Aliens Appeal Board set up under the Act for that purpose. Temporary residence permits and tourist permits may also be issued. Subject to express exemptions, resident but undomiciled aliens are required to be registered and to possess official identity cards; it will take at least three years for a resident alien to acquire domicile. Any company incorporated or registered in the Colony which appoints an alien to its board of directors is required to give official information of that fact. No resident alien may change his surname unless he is permitted so to do by the Minister or unless he falls within one of the expressly exempted classes.

Margarine.—In pre-war days when butter was plentiful in the Colony, margarine was unknown, and is still not yet manufactured here. No. 43 allows its manufacture, import and export under licence with suitable powers of inspection and compels a manufacturer to buy only from registered creameries or cheese factories any dairy produce used in its manufacture.

Parliament.—From the beginnings of responsible government members of Parliament have been paid an annual allowance by resolution of the House. No. 4 now fixes that allowance at £600, subject to a deduction of £3 for each day of unauthorised absence up to a maximum deduction of £100.

Emergency Laws.—No. 35 repealed sixteen war-time Acts and also most of the Defence Regulations but still retained certain emergency power for controlling trade and industry, principally by way of controlling imports, exports and internal prices.

1947

In the second session of the Sixth Parliament a minority Government still carefully tried to avoid presenting bills on controversial subjects.

Railways.—One such subject could not be avoided. The railway system throughout the two Rhodesias and the Bechuanaland Protectorate was, with negligible exceptions, owned by a company registered in the United Kingdom. Most of the capital had been raised by the issue of debentures, no fresh capital had been introduced since 1937 and in the post-war money market the Company could not raise on reasonable terms the additional capital urgently required for renewals and new development unless the Government guaranteed that it would not expropriate the railways for a period of at least ten years. The Government therefore had to decide whether to give such a guarantee or to acquire the railways at once and to raise the required capital itself. The Government chose the second alternative by way of purchasing all the shares in the Company and redeeming all outstanding debentures. Passed against considerable opposition, Act No. 5 authorised the borrowing and appropriation of thirty million pounds for this purpose.

Drought Relief.—A severe drought in the 1946-47 season caused big losses of cattle and crops and a threatened scarcity of water for human consumption. No. 4 conferred on the Governor wide powers, exerciseable until December 31, 1947, for alleviating and combating the effects of the drought, including such measures as the temporary seizure of land and property, the cutting of hay on private land, the removal of cattle to better pastures and the rationing of water supplies.

Marketing of Native Cattle.—The compulsory de-stocking of native reserves, authorised by the Natural Resources Act, 1941, with the object of preventing soil erosion, gave rise to many problems, of which not the least was that it tended to force stock on to a flooded market during a limited period of each year and consequently to depress prices unduly. No. 23 aims at orderly marketing. Native Commissioners are directed to organise public sales of native cattle as often as possible and only such persons or classes of persons as are prescribed by

the Minister may buy at such sales. No person, other than a native, may buy cattle from natives unless he does so at a Native Commissioner's sale or in terms of a permit issued for that purpose by a Native Commissioner.

Native Labour Boards.—No. 26 was a direct outcome of the railway strike of 1945. Its main object is to prevent and settle disputes between employers and natives employed in industry and commerce; it does not affect natives employed on farms, on small mines or in domestice service. It establishes one National Native Labour Board for the whole Colony and two regional boards, any of which may be directed by the Minister to investigate the general conditions of employment of natives in any industry or the causes of any threatened unrest or dispute in industry. The board reports the result of its investigations and its recommendations to the Governor, who may either submit these to arbitrators for decision or himself publish provisional regulations based thereon. After a limited period for receiving and considering objections to provisional regulations, the Governor may make final regulations governing conditions of employment of natives in the industry concerned. Freedom of association is confirmed to native employees.

The National Board will also fill a gap in the provisions of the Industrial Conciliation Act, 1945. Although only non-native employees are represented on industrial councils established under that Act, such a council has always had the right of petitioning the Governor to declare an agreement made between employers and non-native employees to be also binding upon natives employed in the industry concerned within urban areas. In such a case the Governor will now be required to refer the petition to the National Native Labour Board for its consideration and report.

Mines and Minerals.—The production and export of gold is very necessary to the Colony's economy, but rising costs of production without any corresponding rise in world price of the product is causing production to decline. No. 6 provides for subsidising two classes of gold mines—those which, though potentially economic are temporarily hampered by high working costs, and those whose ore reserves are almost exhausted but from which it is desirable to extract the last ounce of gold before they are finally closed down.

No. 19 makes extensive amendments to the general mining law in the light of the past twelve years of its administration and is generally designed to foster mineral production. New features are a Prospecting Board and a Mining Affairs Board; the former will deal with prospecting reservations, applications to prospect on ground hitherto reserved against prospecting and the pegging of underground extensions by means of which a claimholder will be able to follow up his extra-lateral rights beneath ground whose surface is protected against mining. The latter will be concerned with more technical subjects, such as the working of alluvial deposits, the careless working of which may cause serious soil erosion, the regulation of tribute agreements between claimowner and worker, some of which in the past have unduly hampered production, and the expropriation of mining locations which are not being adequately worked or developed.

Land Bank.—No. 28 not only consolidates existing law but also, in order to help overcome the housing shortage, extends the bank's operations to making advances for the purchase, construction or improvement of residential property. So far as farming loans are concerned, the general principle of the Act is that to farmers on privately-owned land loans shall be made by the land bank, but to farmers on Crown land, who are normally developing new land with a view to acquiring it for themselves, loans shall be available direct from Government funds.

Court of Appeal.—When the conjoint Court of Appeal for the two Rhodesias was established in 1939 it was expected that the Protectorate of Nyasaland would would one day be attracted to it. That day has now arrived, and Act No. 14 enlarges the constitution of the Court to include Nyasaland judges, extends its jurisdiction to the hearing and determination of appeals, in both civil and

criminal matters, from the High Court of Nyasaland and renames it the Rhodesia and Nyasaland Court of Appeal.

Land Re-distribution.—Early Rhodesia knew not the refinements of modern town planning. Sometimes villages were blithely laid out on paper with no regard for topographical features, sometimes a surveyor was employed who saved his clients trouble and expense by bending boundaries around existing tin shanties or troublesome anthills; in many cases no provision was made for the streets of the future. To set these matters right fifty years afterwards, small communities might strictly have been required each to promote its own private Bill. No. 3 ingeniously saves them this expense by a public and general Act whose provisions can be applied to any particular area by resolution of Parliament. Not only local authorities but also private individuals may have their lands re-planned. Normally the expenses of re-planning and re-distribution will be borne by the applicants, but for small villages the Government will provide the initial funds for setting re-distribution schemes in motion.

VII. EASTERN COUNTRIES.

1. India.—Central Legislature.

[*Contributed* Dr. S. K. D. Gupta, of the *Law Department.*]

During the year under review, certain changes of a far-reaching character occurred in the constitution and powers of the Indian Legislature. The Indian Independence Act, 1947, set up two independent Dominions of India and Pakistan, as from August 15, in the territories hitherto known as India. An unicameral Legislature was provisionally constituted for the Dominion of India, pending the framing of a new constitution. The Legislature no longer continued to be shackled to the British Parliament but became a fully sovereign body. It was empowered to pass legislation modifying, repealing or overriding Acts of the British Parliament in their application to India and having even extra-territorial operation.

The year was also one of intense legislative activity. An immense mass of statutory orders had to be prepared and promulgated, adapting the constitution and the existing Acts and Ordinances to the changed circumstances. The adaptations made to subsidiary legislation are too numerous to be mentioned. The number of Acts and Ordinances forming the basis of this review was also very considerable, being respectively fifty-eight and thirty-one.

A very noticeable feature about them is the almost complete absence of legislation purely regulating rights of property. Economic, welfare and emergency legislation predominates over everything else. If the trend of legislation is any guide, a dynamic conception of law as the science of social engineering appears to be replacing in India the static conception of law as the adjustment of rights of property and person.

A brief account of the principal Acts is placed below. They are grouped alphabetically under different heads for facility of reference.

Antiquities.—The Antiquities (Export Control) Act, 1947 (Act 31), prohibits the export of antiquities without a licence.

Armed Forces.—The Indian Navy (Discipline) (Amendment) Act, 1947 (Act 8) removes a lacuna in the Indian Navy Discipline Act, 1934, regarding the discipline of certain persons under engagement to serve the Navy, and is analogous to similar legislation passed in the Parliament of the United Kingdom.

The Armed Forces (Emergency Duties) Act, 1947 (Act 15) provides for the employment, in an emergency of persons subject to the Army, Air Force and Naval Discipline Acts, in connection with specified duties declared to be of vital importance to the community. The Act was subsequently amended so as to make it applicable to an acceding State, if requested by such a State.

The Armed Forces (Special Powers) Act, 1947 (Act 3) confers temporarily on officers of the military and air forces, powers of arrest without warrant, entry, search and the use of force, even to the extent of causing death, in disturbed or dangerous areas.

Criminal Tribes.—The Criminal Tribes (Amendment) Act, 1946 (Act 1) is of some interest to reformers and jurists as it *inter alia* abrogates a provision for minimum punishment for second and subsequent offenders belonging to a criminal tribe.

Coinage.—The Indian Coinage Amendment Act, 1947 (Act 28), authorises the Government to issue all coins, including the rupee, in any metal and makes some incidental and consequental changes in the Act.

Commodity Control.—The Rubber (Production and Marketing) Act, 1947, (Act 24) sets up a statutory corporation called the Indian Rubber Board, to look after the interest of the rubber producers of India. Its function *inter alia* is to take steps for the efficient marketing of Indian rubber, advise Government on imports and exports, recommend fair prices, promote research and in short, do all such other things as may be necessary for the development of the Industry. The funds of the Board are to be raised by a cess on rubber.

Emergency Legislation.—The Explosives (Temporary Provisions) Act, 1947 (Act 10) continues for a limited period the powers of the Government to exempt the loading, unloading, handling, storage and conveyances of ammunition explosives, and inflammable substances from certain restrictions imposed by law, in order to facilitate the disposal of surplus stock.

The Railways (Transport of Goods) Act, 1947 (Act 12) empowers the Government, for a period of one year, to give directions in regard to the transport of goods by rail. The object of the Act is to facilitate the movement of essential commodities.

The Trading with the Enemy (Continuance of Emergency Provisions) Act, 1947 (Act 16) continues certain provisions of the Defence of India Rules relating to the control of trading with the enemy and enemy firms and the custody of enemy property.

The Requisitioned Land (Continuance of Powers) Act, 1947 (Act 17) provides for the continuance of certain emergency powers in relation to requisitioned land.

The Imports and Exports (Control) Act, 1947 (Act 18), continues for a period of three years the power to prohibit and control imports and exports.

The Delhi and Ajmer-Merwara Rent Control Act, 1947 (Act 19) is a temporary Act, which seeks to make better provision for the control of rents in Delhi and Ajmer-Merwara. Certain earlier enactments are repealed.

The Delhi Premises (Requisition and Eviction) Act, 1947 (Act 49) is designed to meet the acute shortage of accommodation in Delhi. It was amended by No. 50.

Federal Court.—The Federal Court (Enlargement of Jurisdiction) Act, 1947 (Act 1 of 1948) is an Act of considerable constitutional importance. It provides for the enlargement of the appellate jurisdiction of the Federal Court in civil cases and for the abolition of direct appeals to the Privy Council. The Act does not however interfere with appeals which are pending before the Privy Council and the records of which have been transmitted to England, nor with appeals to the bringing of which special leave may have been granted by the Privy Council before the provisions of the Act had come into force.

Financial Control.—The Foreign Exchange Regulation Act, 1947 (Act 7) regulates certain payments, dealing in foreign exchange and securities and the import and export of currency and bullion. The Act embodies the financial provisions of the Defence of India Rules relating to exchange control with certain modifications and additions which the experience of the past six years has shown to be desirable. The provisions of the Act have been drafted in such a manner

that the degree of restriction on foreign exchange transactions can be relaxed or tightened by executive orders in accordance with the needs of trade and finance or of international agreements, thus ensuring that flights of capital or wild speculation can be immediately controlled. An amendment (Act 40) was subsequently passed to clarify a minor point.

The Capital Issues (Continuance of Control) Act, 1947 (Act 29) keeps alive for a period of five years the control over capital issues which was imposed by the Defence of India Rules.

Industry and Labour.—The Factories (Amendment) Act, 1947 (Act 5) enables Government to make rules requiring specified factories employing more than two hundred and fifty persons, to set up canteens in conformity with prescribed standards and conditions.

The Industrial Disputes Act, 1947 (Act 14), repeals the Trade Disputes Act, 1929, and seeks to reorient the administration of the conciliation machinery. Conciliation is made compulsory in all disputes in public utility services and optional in the case of other industrial establishments. An important new feature of the Act relates to the prohibition of strikes and lockouts during the pendency of conciliation and adjudication proceedings, of settlements reached in the course of conciliation proceedings and awards of Industrial Tribunals declared binding by the appropriate Government.

The Coal Mines Labour Welfare Fund Act, 1947 (Act 32) seeks to make better provision for financing measures for promoting the welfare of labour employed in the coal-mining industry, including housing and the provision for medical services, and for such purposes imposes a cess and constitutes a fund.

The Indian Trade Unions (Amendment) Act, 1947 (Act 45) provides for the obligatory recognition of representative trade unions, the settlement of disputes about recognition and the prevention of unfair practices by trade unions and employers.

Ministers.—The salaries of Ministers Act, 1947 (Act 53), fixes the salaries and allowances of the Ministers of the Dominion of India.

Press.—The Press (Special Powers) Act, 1947 (Act 39), tightens the control over the Press and tries to prevent the dissemination of undesirable matter. Experience had shown that inflammatory writings and exaggerated reports in the Press had often aggravated the communal situation and the ordinary law was too dilatory and afforded undue publicity to objectionable matter. The Act is intended to remedy the evil.

Prevention of Corruption.—The Prevention of Corruption Act, 1947 (Act 2) makes more effective provision for the prevention of bribery and corruption. A new offence of criminal misconduct in the discharge of official duty by a public servant and certain presumptions are created by the Act. The accused is made a competent but not a compellable witness. Previous sanction by the Government or the competent authority is made necessary for prosecution.

Professions.—The Indian Nursing Council Act, 1947 (Act 48) sets up an Indian Nursing Council with powers to prescribe uniform minimum standards of education and training of nurses, midwives and health visitors, supervise examinations, and maintain a schedule of qualifications for registration throughout India. Provision is made for a scheme of reciprocity whereby foreign qualifications may be recognised.

Reserve Bank.—The Reserve Bank of India (Amendment) Act, 1947 (Act 11), makes changes in the principal Act consequential on the bank ceasing to function as banker to the Government of Burma.

Shipping.—The Control of Shipping Act, 1947 (Act 26) provides for a system of licensing which enables the Shipping Authority to specify the trades in which ships may engage and the voyages they may undertake, and also to issue directions in respect of passenger and cargo priorities and routes. Ships registered outside India are not subject to licensing, but may be given priority directions

provided they are taking passengers or cargo in a British India port for discharge at any port in the continent of India. Provision is also made for control over fares and freight rates.

The Indian Merchant Shipping (Amendment) Act, 1947 (Act 41) prohibits the transfer or acquisition of any ship registered in a port of registry in India or any share or interest therein, without the previous approval of the Central Government. It also provides that notwithstanding anything contained in the Act of the United Kingdom, no application for the transfer of the registry of a ship from a port of registry in India to a port of registry outside India shall be granted except with the approval of the Government of India. The Act further empowers the Government to exempt ships from complying with any requirement of the Merchant Shipping Acts upon such conditions, if any, as it may think fit to impose. The Act is interesting as it directly overrides a section of an Act of the United Kingdom Parliament.

Statute Book.—The Panth Piploda Laws Regulation (Amendment) Act, 1947 (Act 35) extends the Co-operative Societies Act, 1912 to that territory.

The Extra-Provincial Jurisdiction Act, 1947 (Act 47) provides for the exercise of extra-provincial jurisdiction by the Central Government.

The Ajmer-Merwara (Extension of Laws) Act, 1947 (Act 52) enables the Central Government to extend any Act which is in force in any other Province to Ajmer-Merwara with such restrictions and amendments it thinks fit.

The Repealing and Amending Act 1947 (Act 2 of 1948) is one of those periodical Acts which repeal Acts which have become spent or otherwise unnecessary. It also makes certain formal amendments in the Income Tax Act, 1922.

Taxation Measures.—The most notable feature of the annual Indian Finance Act 1947 (Act 20) is the discontinuance of salt duty.

The Business Profits Tax, 1947 (Act 21), imposes a special income-tax on the profits of business, professions and vocations, exceeding a certain amount.

The Income-Tax and Excess Profits Tax (Amendment) Act, 1947 (Act 22) enables income tax to be levied on a profit or gain arising from the sale, exchange or transfer of a capital asset. It also provides for terminal losses occuring after the excess profits tax has ceased but which are properly attributable to the excess profits tax period.

The Taxation on Income (Investigation Commission) Act, 1947 (Act 30), makes provision for the appointment of a Commission to investigate and report to the Central Government on all matters relating to taxation on income, with particular reference to the extent to which the existing law is adequate to prevent evasion thereof and to examine individual cases of evasion of taxation of income.

United Nations Organisation.—The United Nations (Security Council) Act, 1947 (Act 43), empowers the Government to apply effectively any measures which the Security Council may call upon it to put into force.

The United Nations (Privileges and Immunities) Act, 1947 (Act 46) gives effect to the Convention on the privileges and immunities of the United Nations, and enables similar immunities to be enjoyed by other international organisations and their representatives and officials.

ORDINANCES.

[*Contributed by* M. K. Narayanaswami Ayyar, Esq.]

Thirty-one Ordinances were promulgated by the Governor-General during the year 1947, the first 14 in the exercise of his powers under s. 72 of the Ninth Schedule to the Government of India Act, 1935, and the remaining under s. 42 of that Act as adapted by the India (Provisional Constitution) Order, 1947. Eight of these were amending Ordinances and one dealt with the repeal of the

Coal Production Fund Ordinance, 1944. The most important of the Ordinances are dealt with below:—

Requisition and Acquisition of Goods.—The Argentina (Jute and Cereals) Agreement Ordinance, 1947 (No. 1), was passed for the purpose of enabling the Government to take immediate possession of certain goods requisitioned and later on acquired under the Defence of India Rules for the purpose of implementing an agreement with the Argentina. The Ordinance had to be issued as the validity of the requisition and acquisition of the goods was challenged in the Court.

Tariff.—The Indian Tariff (Amendment) Ordinance, 1947 (No. 2), amends the Indian Tariff Act, 1943, for the purpose of imposing an export duty on tea.

Control of the Press.—The Press (Special Powers) Ordinances, 1947 (Nos. 3 and 12) confer special powers on the administration in Chief Commissioner's Provinces for the better control and dissemination of undesirable matter. The main object of the Ordinances was to enable the Provincial Government and Chief Commissioner's Provinces to control the printing and publication of matters which tend to promote feelings of enmity or hatred between different classes of His Majesty's subjects.

Armed Forces Powers and Duties.—The Disturbed Areas (Special Powers of Armed Forces) Ordinances, 1947 (Nos. 4, 9, 11, 14, 17 and 22) confer on officers of the military and air forces in disturbed areas notified by the Government certain special powers including the power to arrest without warrant persons committing cognizable offences. Ordinance 4 was passed for disturbed areas of the Punjab and Ordinances 9, 11, 14, 17 and 22 for such areas in the North West Frontier Province, Bengal, Assam, East Punjab and Delhi and the United Provinces respectively.

The Railways (Protection by Armed Forces) Ordinance, 1947 (No. 16) provides for enhanced punishments for derelictions of duty by members of armed forces when engaged in protecting from acts of violence passengers or goods being conveyed upon railways.

Companies.—The Capital Issues (Continuance of Control) Ordinance, 1947 (No. 5) provides for the continuance of control over issues of capital by companies. This was necessitated on account of the expiry of Rule 94A of the Defence of India Rule.

Tea.—The Tea (Export Licences) Ordinance, 1947 (No. 8) extended the period of validity of certain special licences issued for the export of tea during specified periods in 1947.

Buildings.—The Delhi Premises (Requisition and Eviction) Ordinance, 1947 (No. 12) was designed to meet the shortage of accommodation in the Province of Delhi and confers on the Estate Officer to the Government, powers to requisition any premises, and to evict from Government premises (namely, premises either belonging to or taken on lease or requisitioned by Government) any person continuing without authority to occupy those premises. Ordinance No. 12 of 1947 makes certain minor amendments to this Ordinance.

Ordinance No. 18 amends the Delhi and Ajmer-Merwara Rent Control Act, 1947, to enable the Rent Controller to fix the standard rent in the case of newly constructed premises in Delhi.

Nurses.—The Central Nursing Council Ordinance, 1947 (No. 13) provides for the constitution of the Central Nursing Council which is entrusted with the function of establishing uniform standards of training and examination for nurses, midwives and health visitors.

Extra-Provincial Jurisdiction.—The Extra-Provincial Jurisdiction Ordinance, 1947 (No. 15) provides for the exercise of certain Extra-Provincial Jurisdiction by the Central Government in areas outside the Provinces of India acquired by treaty, grant, usage, sufferance or other lawful means.

Banking Companies.—The Banking Companies (East Punjab and Delhi)

Ordinance, 1947 (No. 20) provides for the giving of temporary assistance to certain Banking Companies in the Provinces of East Punjab and Delhi by ordering moratorium for a limited period, and making advances to such Banking Companies. Ordinances 25 and 29 make certain amendments to the principal Ordinance.

Evacuee Property.—The Delhi Evacuee Property (Supplementary) Ordinance, 1947 (No. 23) confers on the custodian of the evacuee property for Delhi the power to remove trespassers from the property by using force, if necessary, if after notice given to them they do not vacate the property. An aggrieved person has a right of appeal to the District Judge.

Refugees.—The Delhi Refugees Registration Ordinance, 1947 (No. 24) provides for the registration of refugees in the Province of Delhi and the grant of certificate of registration to them. Ordinance 26 of 1947 extends the time limit for registration from 15 to 30 days, or, if the Central Government so notifies, by as many days as it thinks fit.

Merchant Shipping.—The Indian Merchant Shipping (Restriction of Transfer of Registry) Ordinance, 1947 (No. 27) is designed to provide for the conservation of the strength of Indian registered merchant shipping, and prevents the transfer of the registry of a ship from a port of registry in India to a port of registry outside India except with the previous approval of the Central Government.

Cotton Textiles.—The Cotton Textiles Equalisation Fund Ordinance, 1947 (No. 28) provides for the creation of a Cotton Textiles Equalisation Fund and the levy of sur-charges on the prices of certain cotton textiles manufactured in the Provinces of India. Provision is made for paying out of the fund subventions to producers and grants for carrying on labour welfare measures for the benefit of workers in cotton textile industry.

Administration of India State.—The Junagadh Administration (Property) Ordinance, 1947 (No. 30) vests in the Administrator appointed by the Central Government certain properties of the Junagadh State consisting among other things of bank deposits, Government securities and shares of Joint Stock Companies belonging to the State. The Administrator is given power to receive and give full and effectual discharge for monies, securities and other properties and to sell, transfer or otherwise dispose of or deal with the properties. The jurisdiction of Civil Courts is barred, but any claim in respect of the properties may be submitted to the Central Government for its decision.

Negotiable Instrument and Limitation.—The Negotiable Instruments Act and Indian Limitation Act (Temporary Amendments) Ordinance, 1947 (No. 31) temporarily amends the Negotiable Instruments Act, 1881 and the India Limitation Act, 1908, with a view to give relief to banks which could not present their negotiable instruments on the due dates or persons who could not file suits within the period of limitation on account of the prevalence of riots or other disturbances in the area.

2. MADRAS.

[*Contributed by* Sri K. V. Rajagopalan, *Joint Secretary to Government.*]

Number of Acts: 37.

Civil Disabilities Removal.—Act XI prohibits all discrimination against certain classes of Hindus known as "Harijans," that is to say, persons in the bottom-most rungs of the social hierarchy. Any person who prevents a Harijan from exercising his civic rights, or who molests or obstructs a Harijan in the exercise of such rights, or who refuses to sell to a Harijan articles kept for sale, will be liable to punishment in a Criminal Court. The Police will have power to arrest without a warrant offenders against the provisions of the Act.

Criminal Tribes.—Act X provides that with effect from a date notified by the

Government, the Criminal Tribes Act, 1924, shall cease to be in force in the Province, except in regard to notified habitual offenders. The continuance of the Criminal Tribes Act on a tribal basis was not considered to be justified, in the light of modern progressive penology.

Fire Services.—Act VIII confers on members of the Madras Fire Services, above the rank of fireman, in the metropolitan City of Madras, powers similar to those exercisable in the City by Police officers above the rank of constable, and enhances the penalty for giving false alarms of fire in the case of a second or subsequent offence, to one of imprisonment. Similar powers have been conferred on Police and Fire Services officers in other parts of the Province also.

Hackney Carriages.—Act XVII increases the price of the list of authorised fares from two to four annas (two to four pence) a copy, and also empowers the Commissioner of Police to vary the price from time to time, subject to the control of the Provincial Government.

High Court.—Act XII includes within the limits of the ordinary original civil jurisdiction of the High Court of Madras, certain neighbouring areas which had recently become part of the metropolitan City of Madras.

Immoral Traffic.—Act XXXV makes provision for the detention in Vigilance Homes, for periods ranging from 2 to 5 years, of women less than thirty years of age, who have been found guilty of solicitation in a street or public place. These Homes are to fulfil much the same functions as Borstal Schools in relation to adolescent offenders.

Irrigation Works—Malabar.—Act VII confers on the Government the power to construct irrigation works for conserving water and regulating its supply, in the district of Malabar. Provision has been made for the acquisition of lands for that purpose, for the utilisation of existing water courses and for the payment of compensation to the affected persons, the amount of compensation being assessed by a Special Court constituted for the purpose. The Act also provides for the issue of permits for the irrigation of lands and makes the payment of water-cess obligatory, whether the water made available for irrigation is actually taken or not.

Land.—Act XIII prohibits the speculative buying of lands in the area, proposed to be irrigated by the great Tungabhadra Dam Project, at low prices in the hope of reselling them at a profit. No person is to acquire more than 50 acres of land in the area without a permit. Permits issued will be subject to the condition that the land should not be alienated for a period of 15 years.

Land — Estates.—Act XIV penalises all alienations of communal and forest lands in certain large estates, without the previous sanction of a Government officer, and makes such alienations void with retrospective effect from the 31st October, 1939. Alienations of private lands in notified impartible estates have also been penalised, and made void with retrospective effect from the 1st November, 1945.

Landlord and Tenant.—Act XXX provides for the reduction of the rents payable by ryots (tenants) holding lands under landholders in estates governed by the Madras Estates Land Act, 1908; approximately to the level of the assessments imposed on lands in the neighbourhood held by tenants directly from the Government. Where the landholder is a religious, charitable or educational institution which loses a portion of its income by reason of such reduction of rent, the Government are to make good the loss.

Legal Practitioners.—Act IX provides that no disciplinary action shall be taken against a legal practitioner for a conviction for a political offence, not involving physical violence or incitement to or abetment of such violence. If disciplinary action has been taken in the past for such an offence, the Madras High Court is to revoke such action, on the application of the practitioner concerned. The Act also confers on the Madras High Court powers of disciplinary

control over advocates of other High Courts ordinarily practising in subordinate courts in this Province.

Legislature—Salary of President.—Act IV raises the salary of the President of the Legislative Council from Rs.500/- (£37 10s.) to Rs.1,000/- (£75) per mensem placing the President in the matter of salary, on a par with the Speaker of the Legislative Assembly, the Lower House.

Local Government.—Act II empowers Government to postpone ordinary elections to municipal councils and local board, and validates all orders postponing elections, issued before the passing of the Act. The Act also provides for the preparation and publication of electoral rolls or of alterations to such rolls, at such times as the Provincial Government may direct.

Act III amends the definition of "company" in the City Municipal Act so as to include within its scope (i) a foreign company and (ii) a company formed in pursuance of the law of an Indian State, that is, territory ruled by an Indian prince. These Companies will, in future, be liable to pay the tax on companies levied under the Act.

In consequence of the inclusion of certain neighbouring areas within the limits of the metropolitan City of Madras, Act VI increases the number of divisions in the City from 40 to 50 and the number of divisional councillors from 45 to 66. It provides for the reservation of seats for the different communities and for women and for the election of the divisional councillors by a system of joint electorates. The Act also increases the number of seats reserved for labour from 2 to 4.

Act XXIV empowers the Government to direct the transfer of the liabilities of municipal councils which have been abolished or of district boards or panchayats (rural local authorities) which have been abolished or have ceased to exercise jurisdiction in a particular area. The Act also gives power to make orders for the removal of difficulties arising from the inclusion of certain areas within the limits of the metropolitan City of Madras.

Marriage Law.—Act XXXII amends the Madras Marumakkattayam Act, 1932 (an Act applicable to Hindus governed by the matriarchal system) so as to validate a customary marriage between two persons governed by the principal Act, one of whom had died before its commencement and to give rights of succession to the children of such marriage.

Non-Power Factories.—Act XXXVII is intended to ameliorate the conditions of workers in factories in which power is not used. All industries and handicrafts specified in a comprehensive Schedule and employing ten or more workers will be governed by the Act. Government have taken power to vary the Schedule, to apply the provisions of the Act to places or premises where less than ten workers are employed, and to exempt any non-power factory or class of such factories from all or any of the provisions of the Act. The Act contains detailed provisions for the licensing of the factories to which it applies, the appointment of Inspectors and certifying Surgeons for carrying out the purposes of the Act, and the measures to be taken in respect of the health and safety of workers, e.g., provision for sufficient air and light, for spittoons, latrines and urinals, and for precautions against fire, etc. No worker in a non-power factory is to work for more than 9 hours in any day or more than 48 hours in any week. Employment of children under 14 years is prohibited. In addition to the weekly holiday the workers are to be entitled to holidays for 12 days in the year, sick leave for 12 days and casual leave for 12 days. Suitable penalties have been provided for contraventions of the provisions of the Act.

Opium and Dangerous Drugs.—Act XXXIV confers on officers of the Prohibition Department, superior in rank to a guard, powers which are exercisable by officers of the Excise, Revenue and certain other Departments to enter, search, etc., any building, vessel or enclosed place.

Places of Public Resort.—Act XXIII applies the provisions of the Places of

Public Resort Act, 1888, to all areas situated within a distance of 3 miles from the limits of any municipality, control being exercised by the authorities of that municipality. Power has been taken to make rules for the distribution of the income derived by a municipal council from outside the municipal limits between the municipal council on the one hand and the local authority or authorities having jurisdiction over the area on the other. The Act also provides that in cases where jurisdiction under the Act is transferred from one authority or officer to another, all action taken by the old authority or officer before the transfer shall be deemed to have been taken by the new authority or officer.

Police.—Act XXVIII fixes the maximum laden weight of hand-carts, prohibits persons under the age of eighteen years from drawing or pushing such carts, and gives power to make by-laws limiting the height of loads on such carts.

Prisons.—Act XVIII prohibits the whipping of prisoners who are on hunger strike.

Act XIX provides for the cost of the clothing and bedding of a person who is committed to prison in execution of a decree of a Civil Court being deposited in advance by the decree-holder.

Probation of Offenders.—Act XXIX empowers a person authorised by the Government to appoint Probation Officers and also validates all appointments of such officers made by the Inspector-General of Prisons before the passing of the Act.

Prohibition.—Act XXI provides for the punishment of (i) persons who are found in a state of intoxication in a public place, and (ii) persons who have not been permitted to consume any intoxicating liquor and are found in a state of intoxication in a *private* place in a Prohibition area.

Act XXII empowers Government to fix limits for the possession of foreign liquor by a person for his *bona fide* private consumption.

Act XXXIII enables the Government, for reasons of administrative convenience, to retain for a temporary period a Government storehouse for intoxicating drugs situated in a Prohibition area, and from which such drugs are issued to areas to which Prohibition has not been extended.

Property Rights of Hindu Women.—Act XXVI extends the operation of the Hindu Women's Rights to Property Act, 1937, to agricultural lands in this Province, with retrospective effect from the 26th November, 1946 (the date of publication of the Bill). A widow will be entitled to the same share in the agricultural lands of her deceased husband as a son, but her interest will, generally speaking, be a life interest.

Prostitution.—Act XXXI prohibits the dedication of women to sacred institutions like temples etc. (the practice is analogous to the dedication of vestal virgins in ancient Rome), as it has led to the women concerned adopting a life of prostitution in a large number of cases.

Public Order.—Act I gives power to the Government to take effective and timely action to deal with subversive activities aimed at the creation of disorders involving menace to the peace and tranquility of the Province. The Act provides for preventive detention; the imposition of collective fines and censorship; the control of meetings and processions, and camps, drills and parades; the requisitioning of property; and the control of services essential to the life of the community.

Shops and Establishments.—Act XXXVI regulates the conditions of work of persons employed in shops and commercial establishments including restaurants, theatres and places of public amusement. The maximum daily and weekly hours of work, the intervals for rest, and the spread-over of periods of work and rest, have all been fixed in the Act. Power has also been reserved to Government to fix the opening and closing hours of the shops and establishments. In addition to weekly holidays, the persons employed are to be entitled to holidays for 12 days in a year (which may be accumulated to a

maximum of 24 days), to sick leave up to 12 days, and to casual leave for another 12 days, that is for 36 days in all, with wages. Employment of children under fourteen years is prohibited. The Act also contains suitable provisions for securing the health and safety of employees and provides penalties for the contravention of its provisions. Certain establishments, for example, those under the Central or Provincial Government and local authorities, have been exempted from the operation of the Act.

Taxation.—Act XX raises the maximum rate of the betting tax from $6\frac{1}{4}$ to $12\frac{1}{2}$ per cent, both for totalizator betting and for betting with book-makers.

Act XXV provides for an increase in the rate of the general sales tax from 2 pies to 3 pies in the rupee (that is from 1 to $1\frac{1}{2}$ per cent) and also for the levy of an additional tax at the rate of 3 pies ($1\frac{1}{2}$ per cent) in some cases and of 6 pies (3 per cent) in other cases, on sales of certain specified luxury goods. Sales of bullion and specie and of cotton yarn other than handspun yarn are to be subject to a tax of $\frac{1}{4}$ per cent only on the turnover, the former at one point only, and the latter at two points, in the series of sales. While handspun cotton yarn and cloth woven on handlooms wholly with such yarn, if sold by persons dealing exclusively in such cloth, will be exempt from tax, cloth woven on handlooms with mill yarn will be exempt from tax only if the sale is to a dealer in the Province or is for delivery outside the Province. The exemption from tax granted to sales of tea has been removed. But tea grown by the seller or grown on any land in which he has an interest will continue to be exempt if the sale is for delivery outside the Province. Newspapers will, in future, be liable to tax at one point. A general power has also been given to Government to make exemptions and direct reductions of tax. Dealers whose turnover in any year is not less than Rs.7,500/- (£562½) are to be registered with a view to prevent evasion of tax in marginal cases. The collection of the sales tax from customers by dealers who have not been registered is also prohibited.

Act XXVII enhances generally the rates of the entertainments tax, the rates varying from one-fifth to one-third of the payment for admission. For cinematograph exhibitions, payments *exclusive* of the tax will be taken into account, while in other cases, payments *inclusive* of the tax will be taken into account. For dramatic and music performances, Indian dances and exhibitions, much lower rates varying from one-eighth to one-third of the payment for admission have been fixed. The entire proceeds of the tax *less* a deduction of 10 per cent representing collection charges are to be paid to the local authority concerned. Power has been taken to distribute the proceeds between the local authorities concerned, where entertainments are held outside the limits of a local authority but the bulk of the people attending the entertainments come from within such limits.

Temple Entry.—Act V removes the disabilities imposed by custom or usage on certain classes of Hindus known as Harijans in respect of entry into Hindu temples and offering worship therein. It confers on such persons a right to enter any temple which is open to the general Hindu public and offer worship in the same manner and to the same extent as other classes of Hindus. The Malabar Temple Entry Act, 1938, and the Madras Temple Entry Authorisation and Indemnity Act, 1939, which gave a right of entry either on a plebiscite of the worshippers or on a direction by Government and are no longer needed, have been repealed.

Tuberculosis Sanatoria.—Act XVI reproduces without material change, the substantive provisions contained in Madras Acts XIV and XXIV of 1943 and XVII of 1944 and relating respectively to the control of building operations in the vicinity of the Tuberculosis Sanatoria at Madanapalle, Tambaram and Perundurai. It was considered that instead of having a separate enactment for each sanatorium, it would be advantageous to have one general Act which would apply to the three Sanatoria mentioned above and at the same time, be capable of application to other sanatoria later.

3. BOMBAY.

[*Contributed by* J. R. DHURANDHAR, ESQ.]

DURING the year 1947 the following Acts were passed by the Bombay Legislature and having received the assent of the Governor or the Governor-General, as the case required, became law. The main purposes of each of the Acts are briefly stated below:—

Local Government.—During the period commencing from November 4, 1939, to April 3, 1946, all Acts were made by the Governor of Bombay in exercise of the powers of the Bombay Legislature assumed by him under the Proclamation dated November 4, 1939, issued under s. 93 of the Government of India Act, 1935. With regard to these Act, sub-section (4) of the said s. 93 provided that every such Act shall, subject to the terms thereof, continue to have effect until two years have elapsed from the date on which the proclamation ceases to have effect, unless sooner repealed or re-enacted by Act of the Legislature. The said Proclamation ceased to have effect from April 3, 1946. It was, therefore, necessary to re-enact the Acts made by the Governor during the period commencing from November 4, 1939, to April 3, 1946, before two years had elapsed from the last-mentioned date, *i.e.*, before April 3, 1948, unless it was intended that any of such Acts should lapse.

No. 1 is one of such re-enacting Acts. It re-enacts the Bombay Municipal Boroughs (Amendment) Act, 1944, the Bombay District Municipal and Municipal Boroughs (Amendment) Act, 1945, and the Bombay District Municipal and Municipal Boroughs (Amendment) Act, 1946.

Act II amends the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, to enable a municipality to undertake the running of a motor transport service.

Home Guards Act.—Act III provides for the enrolment of a volunteer organisation known as Home Guards to supplement the ordinary police in the maintenance of law and order and places the organisation on a permanent footing.

Public Security Measures.—Act VI consolidates and amends the law relating to public safety, maintenance of public order and the preservation of peace and tranquility in the Province of Bombay.

Motor Vehicles.—Act VII permits the Provincial Government or a Municipality or a local body authorised by the Provincial Government to operate transport services for hire and profit and to eliminate private operators completely.

Harijans. —Act No. X provides for the removal of the social disabilities of Harijans. Act No. XXXV entitles Harijans to enter and perform worship in temples in the Province of Bombay.

Industrial Relations.—Act XI regulates the relations of employers and employees, makes provision for settlement of industrial disputes and provides for certain other purposes.

Irrigation. —Act XIII amends the Bombay Irrigation Act, 1879, to provide for the appointment of Mahalkaris as canal officers for purposes of ss. 76 and 78 of the said Act.

Weights and Measures.—Act XV repeals the Bombay Weights and Measures (Amendment) Act of 1943 and 1945 and re-enacts certain provisions thereof.

Village Police. —Act XVIII amends the Bombay Village Police Act, 1867, so as to vest the administration of the village police in certain villages in the Collector of the Bombay Suburban District instead of in the Collector of Bombay.

Hindu Divorce.—Act XXII provides for a right of divorce among all communities of Hindus in certain circumstances.

Court Fees.—Act XXIV provides that the excess court fee shall be taxed

by the Court as soon as judgment is delivered and that it shall be recovered as an arrear of land revenue.

Sales Tax.—Act No. XXV implements some of the recommendations made by the Sales Tax Enquiry Committee which was appointed by the Government to consider the scheme of sales tax. The recommendations do not involve a departure from the main scheme of the Act but seek to remove various difficulties experienced by the dealers.

Opium.—Act XXVI amends the Opium Act, 1878, so as to facilitate the enforcement of control during the period preparatory to complete prohibition and to enhance the penalties effectively.

Whipping.—Act XXVII re-enacts the Bombay (Emergency Powers) Whipping Act, 1941, and amends further the law relating to the punishment of whipping in the Province of Bombay.

Agricultural Debtors.—Act XXVIII consolidates and amends the law for the relief of agricultural debtors in the Province of Bombay.

Molasses.—Act XXX provides for the control of transport, sale and possession of molasses in order to prevent its use for the illicit manufacture of liquor and to make it easily available for lawful purposes in the Province of Bombay.

Money Lenders.—Act XXXI regulates and controls transactions of money-lending in the Province of Bombay.

Industrial Museum.—Act XXXII provides for the management and maintenance of the Lord Reay Maharashtra Industrial Museum at Poona.

Trade Disputes.—Act XXXIV provides for the transfer and continuance of adjudication proceedings in trade disputes referred to an adjudicator for adjudication under Rule 81A of the Defence of India Rules and pending before such adjudicator.

Essential Supplies.—Act XXXVI provides for enhancement of penalties for contravention of orders under the Essential Supplies (Temporary Powers) Act, 1946, and the Bombay Essential Commodities and Cattle (Control) Act, 1946.

Prevention of Gambling.—Act XXXVII repeals the Bombay Prevention of Gambling (Amendment) Act, 1941,* re-enacts certain provisions thereof and amends ss. 4 and 5 of the Act in order to provide for minimum but graduated punishments for the first, second and third and subsequent offences.

Probation of Offenders.—Act XXXVIII deletes the proviso to s. 5 (1) of the Bombay Probation of Offenders Act, 1938, in order to remove the difficulty caused to an offender to furnish a surety.

Motor Vehicles.—Act XL repeals the Bombay Motor Vehicles Act and the Bombay Local Boards (Amendment) Act, 1940, and the Bombay Motor Vehicles Tax (Amendment) Act, 1942, and re-enacts certain provisions thereof.

Act XLVI enables the Provincial Government to refuse refund of the tax for the unexpired portion of the quarter for which the tax has been paid, to the owner of a motor vehicle other than a transport vehicle on transfer to another Province. It also makes the production of a certificate of insurance compulsory before payment of tax in respect of a motor vehicle.

Muslims.—Act XLI mainly abolishes separate electorates provided for Muslims in the Bombay Local Boards Act, 1923, and the Bombay Municipal Boroughs Act, 1925, and provides instead for reservation of seats on a population basis in joint electorates for them as is done for other recognised minorities and as is done for Muslims themselves in the case of some municipalities constituted under the Bombay District Municipal Act, 1901.

Agricultural Pests and Diseases.—Act XLIII repeals and re-enacts the Bombay Agricultural Pests and Diseases Act, 1941, providing for the prevention of the introduction, spread or reappearance of insect pests, plant diseases and noxious weeds injurious to crops, plants or trees in the Province of Bombay.

Land Revenue.—Act XLV removes the requirement of the consent of the

holders of alienated villages before the introduction of Survey Settlements in alienated villages and proposes to charge the holders and also if Government so direct other persons interested in the lands in the village with the expenses of these operations but at the same time to respect all obligations undertaken by Government under existing agreements with the holders of alienated villages. It also imposes on the holders by law the obligation to defray the salaries of the village officers and the cost of collecting local fund cess.

Act XLIX authorises the sale of a part of the property, the price of which will be just sufficient to cover the amount of the arrears of the land revenue and also permits the owner or holder of the property sold or the person interested in the said property to appeal to the Collector to set aside the sale.

Habitual Offenders.—Act LI makes provision for restricting the movements of habitual offenders in the Province of Bombay, for requiring them to report themselves and for placing them in settlements.

Warehouses.—Act LVI provides for the regulating and licensing of warehouses warehouses in the Province of Bombay.

Rents, Hotel and Lodging House Rates Control.—Act LVII amends and consolidates the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions.

Rationing Measures.—Act LVIII provides for the numbering of premises and collecting information about persons and establishments, as measures preparatory to and for continuance of the rationing of articles or things essential to the life of the community.

District Police.—Act LIX amends the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902, so as to place the entire system of assessment, recovery and award of riot compensation on a sound footing. It also seeks to prohibit the resale of cinema tickets, makes certain offences under the said Acts cognisable; provides for the employment of additional police at the cost of inhabitants of any particular areas which appear to be in a disturbed or dangerous state; and empowers selected police officers not below the rank of Sub-Inspector to disperse an unlawful assembly.

Village Panchayats.—Act LX, in addition to re-enacting certain Governor's Acts made during the s. 93 *régime*, confers and imposes certain additional discretionary powers and duties on the village Panchayats. Under this Act, jurisdiction under certain additional Acts has been conferred on the nyaya-panchayat and penalties which can be imposed by the nyaya-panchayat have also been increased.

Primary Education.—Act LXI provides for compulsory primary education and makes better provision for the management and control of primary education in the Province of Bombay.

Agricultural Holdings.—Act LXII provides for the prevention of fragmentation of agricultural holdings and for their consolidation.

Forward Contracts Control.—Act LXIV provides for the regulation and control of forward contracts, for prohibition of options and for certain other purposes in the Province of Bombay.

4. BENGAL AND WEST BENGAL.

[*Contributed by* K. K. Hajara, Esq.]

Acts—18.

In 1947 the total number of Acts passed by the Provincial Legislature was 18. Of these six Acts were passed by the Legislature of undivided Bengal and the remaining twelve Acts were passed by the Legislature of West Bengal after the

partition of Bengal consequent on the setting up of the two independent Dominions of India and Pakistan by the Indian Independence Act of 1947 (10 & 11 Geo. VI, c. 30). Of these 18 Acts as many as ten were amending Acts, two were extending Acts, and the remaining six were original measures.

Ordinances Temporary Enactment.—Bengal Act I (The Bengal Ordinances Temporary Enactment Act, 1947) was an important piece of legislation providing for the temporary continuance of the provisions of certain Ordinances mentioned in the Schedule to the Act. Consequent upon the expiry of certain wartime emergency measures, the further continuance of which was found necessary in the unsettled post-war period and upon communal disturbances in Bengal which broke out in the second half of 1946 necessitating emergent legislation connected with law and order, a number of Ordinances had to be promulgated by the Governor of Bengal in exercise of his legislative powers under s. 88 of the Government of India Act, 1935. The normal life of all these Ordinances could not under the said section extend beyond six weeks from the reassembly of the Provincial Legislature. As, however, the circumstances necessitating the promulgation of the Ordinances mentioned in the Schedule to the Act had not ceased to exist, it was necessary in the public interest to continue the provisions of these Ordinances for a period of six months from the date of their expiry in the first instance and for a further period of six months if in the opinion of the Provincial Government it was necessary so to do in the public interest. This was done by the passing of this Act as mentioned above.

District Boards and District School Boards.—West Bengal Act 3 of 1947 (The West Bengal District Boards Act, 1947) and West Bengal Act 4 of 1947 (The West Bengal District School Boards Act, 1947) were passed by the West Bengal Legislature to deal respectively with certain District Boards and District School Boards. As a result of the award of the Boundary Commission by which the boundaries between the new Province of West Bengal within the Dominion of India and the new Province of East Bengal within the Dominion of Pakistan were determined, four new districts Navadwip (since known as Nadia), West Dinajpur, Malda and Jalpaiguri were constituted comprising respectively those parts of the former districts of Nadia, Dinajpur, Malda and Jalpaiguri which had been included in West Bengal under the award of the Boundary Commission. As some time was likely to elapse before the district boards and the district school boards in the newly created districts could be constituted respectively in accordance with the provisions of the Bengal Local Self Government Act, 1885, and the Bengal (Rural) Primary Education Act, 1930, the Government took powers under the West Bengal District Boards Ordinance, 1947, and the West Bengal District School Boards Ordinance, 1947, to constitute respectively the district boards and the district school boards in those four districts by the appointment of such number of members as it thought necessary, pending the reconstitution of these district boards and district school boards through the usual process as laid down in the original Acts mentioned above. These two Acts were passed by the Legislature placing the provisions of the above mentioned Ordinances permanently on the statute book.

Requisition and Control of Premises.—West Bengal Act 5 confers powers on the Provincial Government to requisition premises for any public purpose as also to control the letting out of vacant premises by the landlords thereof. Immediately after the partition of Bengal, the Government of West Bengal was faced with the problem of providing accommodation in public interest, to a large number of Government officers, public institutions and other persons in most of the municipal towns of West Bengal and particularly in Calcutta. It was accordingly considered necessary to obtain powers for requisitioning premises to meet the situation arising out of an acute shortage of housing accommodation. As the matter was very urgent and the Provincial Legislature was not in session, the Governor of West Bengal promulgated the West Bengal Premises (Requisi-

tion and Eviction) Ordinance, 1947, under s. 88 of the Government of India Act. As the grounds which necessitated the promulgation of the Ordinance continued to exist, this Act was passed by the Legislature incorporating the provisions of the Ordinance as well as some new provisions relating to the control of vacant premises by the Government. S. 3 empowers the Provincial Government to requisition any premises for a public purpose and lays down the procedure for such requisition. S. 10 deals with release from requisition of any premises which are no longer required for any public purpose. Chapter III comprising ss. 11 to 14 of the Act deals with compensation that shall be paid to interested persons on the requisition of any premises. It lays down the principles and procedure in accordance with which the amount of compensation shall be determined as also the matters to be considered at the time of determining it. Chapter IV comprising ss. 15 to 19 of the Act deals with the control of vacant premises.

Disturbed Areas.—West Bengal Act 6 was passed by the Provincial Legislature to make better provision for the suppression of disorder and for the restoration and maintenance of public order in the disturbed areas in West Bengal. The communal disturbances of August, 1946, demonstrated that the powers available under the ordinary law were far too inadequate to deal with the present-day disturbances in which firearms, weapons of modern warfare and corrosive substances are used freely and on a large scale and of which wide-spread looting, incendiarism and manslaughter form a special feature. To suppress such disorders and to prevent their further spread it was necessary that the police should be armed with wider powers to deal with the actual law breakers on the spot. For this purpose the Bengal Disturbed Areas Ordinance, 1947, was promulgated by the Governor. The provisions of the Ordinance with some modifications have been incorporated in this Act. Under s. 3 of the Act the Provincial Government may by notification published in the *Official Gazette* declare the Province of West Bengal or any part thereof to be a disturbed area. Under s. 4 a Magistrate, or a Police Officer not below the rank of Assistant Sub-Inspector of Police, may for the maintenance of public order, after giving necessary warning, fire upon or otherwise use force against any person who is acting in contravention of any law or order in a disturbed area, prohibiting the assembly of five or more persons or the carrying of weapons.

Criminal Law.—By West Bengal Act 7 of 1947 special provisions have been made for speedy trial by Special Tribunals and for more effective and adequate punishment of certain offences mainly involving concealment of money and other properties procured by illegal or deceitful means. The ordinary procedure of the law would involve delay hence it was thought necessary to provide an accelerated procedure. The Criminal Law Amendment (No. II) Ordinance, 1947, was promulgated by the Governor with this object in view. The Act embodies the provisions of the Ordinance with slight modifications. Ss. 3 and 4 deal respectively with the constitution and composition of Special Tribunals. S. 5 lays down the procedure and powers of these Tribunals. S. 9 makes special provisions relating to punishment. It provides *inter alia* that when any person is found guilty by a Special Tribunal of an offence triable by it, the Special Tribunal shall, whether or not it imposes a sentence of imprisonment, impose, in addition to such sentence of fine as it would have otherwise imposed, a further sentence of fine which shall be equivalent to the amount of money or value of other property found to have been procured by the offender by means of the offence. The Schedule gives a list of offences triable by a Special Tribunal.

Extending Acts.—In the year under review there were two such Acts, namely, Bengal Act 2 of 1947 and West Bengal Act 2 of 1947. By the former Act the period of operation of the Bengal Non-Agricultural Tenancy (Temporary Provisions) Act, 1940, as amended by the Bengal Non-Agricultural Tenancy

(Temporary Provisions) Amendment Act, 1945, which was due to expire on the 29th May, 1947, was extended for a further period of one year with effect from that date. And by the latter Act the period of operation of the Bengal Finance (No. II) Act, 1945, authorising the provincial Government to levy at the rate of 15 per centum the Totalisator Tax and the Betting Tax leviable under the Bengal Amusements Tax Act of 1922, was extended up to the 31st March, 1948.

Amending Acts.—As already stated the remaining ten Acts passed by Provincial Legislature in 1947 are amending Acts. A brief reference is made to them. By West Bengal Act 1 of 1947 (The Calcutta Municipal (Amendment) Act, 1947) the Calcutta Municipal Act, 1923, was amended in important respects. The principal amendments are (i) abolition as undemocratic of the system of appointment of some Councillors to the Corporation of Calcutta and of the system of election of Councillors on the basis of separate electorates, and (ii) introduction of the system of joint electorates with reservation of seats for minority communities and Scheduled Castes. These amendments were at first effected by the Calcutta Municipal (Amendment) Ordinance, 1947. The amending Act incorporates the provisions of the Ordinance with minor modifications. By West Bengal Act 9 of 1947 (The Bengal Local Self-Government (West Bengal Amendment) Act, 1947), West Bengal Act 10 of 1947 (The Bengal Village Self-Government (West Bengal Amendment) Act, 1947) and West Bengal Act 11 of 1947 (The Bengal Municipal (West Bengal Amendment) Act, 1947), the system of appointment of some members by Government respectively to District Boards, Union Boards and Municipalities in West Bengal has been abolished as undemocratic.

By Bengal Act III of 1947 (The Bengal Dentists (Amendment) Act, 1947) the time for registration of names of persons engaged *bona fide* in the practice of dentistry has been extended till the 31st May, 1950. By Bengal Act 4 of 1947 (The Cattle-Trespass (Bengal Amendment) Act, 1947) District Magistrates and Police Officers who have got to perform various important duties have been relieved of some of their duties under the Cattle-Trespass Act, 1871. The amending Act gives powers to the District Magistrate to appoint Chairmen of Municipalities and Presidents of Union Boards to conduct sales of unclaimed cattle impounded within their jurisdictions. By Bengal Act 5 of 1947 (The Bengal Tenancy (Amendment) Act, 1947) the period of suspension of the provisions relating to enhancement of rent of a *raiyat* or an under-*raiyat* has been further extended by five years with effect from the 27th August, 1947, and landlord's fees payable in respect of transfer of permanent tenures have been abolished. Bengal Act VI of 1947 (The Bengal Local Self-Government Associations (Recognition) Amendment Act, 1947) empowers local authorities to pay out of their own funds travelling expenses to their representatives for attending meetings of the executive committee of the Bengal Local Self-Government Association.

West Bengal Act 8 of 1947 (The Bengal Public Demands Recovery (West Bengal Amendment) Act, 1947) amends the Bengal Public Demands Recovery Act, 1913, for the purpose of bringing the provisions of the latter Act in force with the provisions of the Bengal Co-operative Societies Act, 1940, in respect of requisitions for certificates filled by a liquidator under the Bengal Co-operative Societies Act, 1940, and for the purpose of facilitating the realisation of loans advanced by Government to private persons. It is provided that such loans shall be recoverable as public demands provided that the person liable to pay the same has agreed by a written instrument that the loan shall be so recoverable. West Bengal Act 12 of 1947 (The West Bengal Laws (Amendment and Repeal) Act, 1947) re-enacts certain provisions of the Acts made by the Governor of Bengal under the legislative powers assumed to himself under the Proclamation, dated the 31st March, 1945, issued under section 93 of the Government India Act, 1935.

ORDINANCES.—12.

During the year under review twelve Ordinances were promulgated by the Governor in exercise of his legislative powers under s. 88 of the Government of India Act, 1935.

The provisions of as many as seven of these Ordinances, namely the Bengal Finance (Extending) Ordinance, 1947, the Bengal Disturbed Areas Ordinance, 1947, the Calcutta Municipal (Amendment) Ordinance, 1947, the West Bengal Criminal Law Amendment (No. II) Ordinance, 1947, the West Bengal Premises Requisition and Eviction) Ordinance, 1947, the West Bengal District Boards Ordinance, 1947, and the West Bengal District School Boards Ordinance, 1947, have been incorporated with minor modifications respectively in the following Acts of the Provincial Legislature, namely, the Bengal Finance (West Bengal Extending) Act, 1947, the West Bengal Disturbed Areas Act, 1947, the Calcutta Municipal (Amendment) Act, 1947, the West Bengal Criminal Law Amendment Act, 1947, the West Bengal Premises Requisition and Control (Temporary Provisions) Act, 1947, the West Bengal District Boards Act, 1947, and the West Bengal District School Boards Act, 1947. Discussion of these Acts had already been made above.

A short survey of the remaining five Ordinances is made below. Bengal Ordinance 1 of 1947 (The Bengal Criminal Law Amendment Ordinance, 1947) was promulgated to make special provision for the speedy trial by Special Benches of Judges of offences committed during the communal disturbances of 1946 in Calcutta, 24-Parganas and Howrah.

By Bengal Ordinance 2 of 1947 (The Bengal Special Powers (Amendment) Ordinance, 1947) and Bengal Ordinance 6 of 1947 (The Bengal Special Powers (Second Amendment) Ordinance, 1947) the Bengal Special Powers Ordinance, 1946, by which special provisions were made for ensuring public safety and interest and maintenance of public order, was amended.

Bengal Ordinance 3 of 1947 (The Bengal Civil Pioneer Force Ordinance, 1947) was promulgated for the maintenance of the Civil Pioneer Force constituted under the Civil Pioneer Force Ordinance, 1942. Bengal Ordinance 5 of 1947 (The East Bengal Requisition of Property Ordinance, 1947) made provisions for the requisition and acquisition of property in connection with the establishment at Dacca of the Government of the new Province of East Bengal within the Dominion of Pakistan created by the Indian Independence Act, 1947.

Finally, one remark with respect to Ordinances. Ordinances are promulgated by the Governor in exercise of his legislative powers under s. 88 of the Government of India Act, 1935, when the Provincial Legislature is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action. An Ordinance has the same force and effect as an Act of the Provincial Legislature, but every such Ordinance shall be laid before the Provincial Legislature and cease to operate at the expiration of six weeks from the reassembly of the Legislature or upon the passing of a resolution of disapproval by the Provincial Legislature and every such Ordinance may be withdrawn at any time by the Governor.

REGULATIONS—NIL.

In the year 1947 there was no regulation made by the Governor under sub-section (2) of s. 92 of the Government of India Act, 1935, for the peace and good Government of any excluded or partially excluded area.

5. UNITED PROVINCES.

[*Contributed by* R. P. VERMA, ESQ.]

THE year was a busy one and was marked by the passing of many important legislative measures in the form of acts and ordinances, principal as well as

amending. Many decisions of far-reaching importance, in the matter of Government policy, were also taken consequent upon the attainment of independence by the country on August 15, 1947.

Two sessions of the United Provinces Legislative Assembly were held during the year. The first commenced from January 11 and continued, with short breaks, up to June 6. In all, 73 meetings were held during this session, 17 at Naini Tal and the rest in Lucknow. The second session was held in November and consisted of seven meetings.

In the case of the Legislative Council, only 47 meetings were held during the year. A session of the Council was also held in the month of May at Naini Tal. The Council was prorogued twice during the year, once on August 21 and again on December 9.

Finance.—The Budget estimates for 1947-48 were discussed by both Houses and passed by the Legislative Assembly in March. The most conspicuous feature of the Budget debate was that the Honourable Finance Minister delivered his Budget Speech in Hindi.

New Oath.—In the first post-Independence meeting of the Legislative Assembly on November 3 and of the Legislative Council on September 10, the new oath, as prescribed in the Fourth Schedule of the Government of India Act as adapted by the India (Provisional Constitution) Order, 1947, was taken by all the members present amidst great enthusiasm and in an atmosphere of ceremonial gaiety.

Use of Hindi.—In its meeting on November 4, the Legislative Assembly adopted the use of a resolution recommending the use of Hindi for all work and proceedings in Assembly and since then all the business of the House, including questions, speeches by members, etc., is being transacted in that language. The Proceedings of the Assembly are also being printed in Hindi only. Previously, these proceedings used to be printed in English, Hindi and Urdu. All work and correspondence of the Assembly Department is also being carried on in Hindi.

Legislative Procedure.—Several amendments were made to the rules of the Legislative Assembly, including one which provided that the entire work of the Assembly would be done in Hindi. In the Council also a motion was made for amendment of the United Provinces Legislative Council rules and the draft amendments were referred to a Select Committee.

Legislation.—The United Provinces Legislature passed twenty-eight Bills which became Acts after having been assented to by the Governor, or the Governor-General, as required by Law.

Ordinances.—During the periods when the legislature was not in session, the Governor, in exercise of the powers conferred by s. 88 of the Government of India Act, and on grounds of immediate necessity, promulgated fourteen Ordinances.

Only one non-official Bill, relating to Homeopathic treatment, was moved in the United Provinces Legislative Assembly in the year 1947 and it was referred to a Select Committee.

Resolutions.—The only official resolution moved in and passed by the Legislative Assembly and the Legislative Council related to the passing of an Act by the Central Government for regulating the Government securities issued by, and the management by the Reserve Bank of the public debt of, the United Provinces Government.

Five non-official resolutions were adopted by the Legislative Council, including one for the adoption of Hindi in the Devanagari script as the State Language of the Province. Others related to the adoption of a suitable name for the Province, the allotment of funds to the Engineering Section of Agriculture Department for the purchase of modern agricultural implements, opening of small model farms to demonstrate the improved methods of cultivation and the development and upkeep of cattle, and revision of the Land Records Manual, etc.

Three days were allotted for non-official business in the Assembly and seven in the Legislative Council. The important non-official resolutions passed in the Assembly concerned compulsory primary education, repeal of the Arms Act, improvement of the breed of cattle in the Province and the management of pastures.

Constitution.—Consequent upon the passing of the Indian Independence Act and the adoption of the Government of India Act, 1935, by the India (Provisional Constitution) Order, 1947, the special European seats in the Legislature were abolished and the strength of the Legislative Assembly and Council was thus reduced by 2 and 1, respectively.

7. BIHAR.

[*Contributed by* THE SECRETARY TO THE GOVERNMENT.]

A—Acts.

DURING the year 1947, 27 Acts were enacted by the Provincial Legislature.

Sugar Factories.—No. 1 raises the maximum limit of case leviable from 12 pies to 24 pies per maund of sugarcane. No. XXVII re-enacts certain Acts amending the Bihar Sugar Factories Control Act, 1937, which were enacted by His Excellency the Governor under s. 93 of the Government of India Act, 1935. The important provisions of the Act are:—(i) statutory recognition of the sugar Commission with necessary powers for controlling the marketing, production and prices of sugar through the Indian Sugar Syndicate; (ii) enhancement of penalty in respect of sugar produced or sold in contravention of the conditions of the crushing licence from eight annas to three rupees per maund; (iii) statutory recognition of the sugar cane varieties advisory committee; and (iv) compulsory supply of cane through canegrowers co-operative societies.

Emergency Harvesting.—No. II empowers Government to arrange for the harvesting of crops on, and the cultivation of, lands abandoned as a result of the communal disturbances in certain parts of the province which occurred during the month of November, 1946.

Housing.—No. III seeks to continue as a temporary measure the control of the letting of houses in towns, the rent of such houses and any unreasonable eviction of tenants therefrom as the housing problem continues to be acute in many towns in the province.

Essential Articles.—No. IV seeks to continue as a temporary measure the control in respect of some of the essential articles such as consumers' goods which are still not available freely and the problem of distribution of such goods continues to be as acute as ever before.

Public Order.—No. V arms Government as a temporary measure with adequate powers to take measures to deal firmly with grave emergencies tending to disturb the peace and tranquility of the province.

Molasses.—No. VI empowers Government for a limited period of time to regulate the distribution, price and export of molasses produced by sugar factories in Bihar in order to prevent profiteering in the commodity and to ensure its adequate supply to distilleries in the province at a reasonable price.

Electricity.—No. VII empowers Government as a temporary expedient to impose restrictions on the distribution of electrical energy to industrial undertakings and to authorise the levy of surcharge on the amount charged for the supply of electrical energy to consumers to meet the present difficulties caused by the inadequate supply of fuel and engineering materials necessary for running electric power station and the increase in the cost of generating energy.

Entertainment Duty.—No. VIII amends the Bihar Entertainments Duty Act, 1937, so as to make it possible for Government to delegate its powers and duties to any officer or authority subordinate to it.

Public Irrigation.—No. X provides for a simplified procedure for taking up works of irrigation, drainage, land reclamation and floods alleviation, and empowers Government to levy a cess for the purpose of recovering the annual cost of maintenance of such works.

Local Government.—No. XI amends the Bihar and Orissa Local Self-Government Act of 1885 permitting a member of a District Board removed from office for failure to attend six consecutive meetings of the Board, to seek re-election with the consent of Government and withdrawing the power of the District Board to approve the election of the Chairman of a local Board.

No. XII amends the Bihar and Orissa Village Administration Act, 1922, so as to empower:—(i) a District Board to undertake any of the duties entrusted to a Union Board, which by reason of its magnitude or the amount of expense likely to be incurred thereon, cannot be satisfactorily carried out by such Union Board; (ii) the Government to extend the terms of office of members of any Union Board or of any *panchayat* by an additional period not exceeding two years.

No. XVIII makes certain amendments in the Bihar and Orissa Municipal Act, 1922, so as to raise the maximum rates of taxes and fees on some of the items of taxation by municipalities.

No. XXI amends the Bihar and Orissa Local Self-Government Act of 1885 and the Cess Act, 1880, in order to provide for the establishment of a separate District Board for Saharsa in the district of Bhagalpur.

Bakasht Disputes.—No. XIII empowers Government to set up Boards of Arbitration for the speedy settlement of disputes between proprietors or tenure-holders and *raiyats* regarding possession of Bakasht lands without affecting the claims to right and title which any party may have in the lands in question.

Evidence.—No. XIV empowers officers of the Registration Department to take steps for the preparation and authentication of copies of decaying or decayed documents which shall be deemed for all legal purposes to be as good as the original documents.

Nurses Registration.—No. XV amends the Bihar and Orissa Nurses Registration Act, 1935, so as to provide for an increased representation of nurses and women members of the Bihar Nurses Registration Council and empowers Government to prescribe the courses of training and examination for nurses, health visitors, midwives, etc.

Medical.—No. XVI empowers the Bihar Medical Council to elect its own president from among its own members.

Weights.—No. XVII aims at the adoption throughout the province of a uniform standard of weights.

Taxation.—No. XIX provides for the levy of a tax on the sale of goods for the purpose of augmenting the provincial revenues.

Home Guards.—No. XX provides for the constitution of a voluntary organisation of responsible citizens to supplement the police force, to put down any large-scale disorders and for fighting serious crimes against property.

Treasure-Trove.—No. XXII is designed to remove certain defects in the Indian Treasure-trove Act, 1878, by empowering the Collector to make an enquiry into the finding of the treasure on receipt of information from any other source and making the owner of the land responsible for reporting the finding of the treasure to the Collector.

Tenancy.—No. XXIII amends the Bihar Tenancy Act, 1885, generally with a view to giving greater protection to, and conferring larger benefits on, the tenants.

No. XXV amends the Chota Nagpur Tenancy Act, 1908, with a view to removing certain defects and discrepancies in the Act and conferring a large number of benefits on the tenantry in Chota Nagpur.

Maternity Benefit.—No. XXIV prohibits the employment in factories of

women workers during certain periods preceding and following their confinement and provides for the payment to them of maternity benefit at certain prescribed rates.

Jharia Water Supply.—No. XXVI enables the Jharia Water Board to invest its surplus funds in Government securities or in other securities approved by Government and also repeals with retrospective effect S.55a of the Jharia Water Supply Act, 1914.

B—Ordinance.

Only one Ordinance, viz., the Bihar Bakasht Disputes Settlement Ordinance, 1947, was made and promulgated by His Excellency the Governor of Bihar under sub-section (1) of s. 88 of the Government of India Act, 1935, during the year under review. This ordinance was later in the year enacted into an Act of the Provincial Legislature—No. XIII of 1947—the provisions of the two being the same.

C—Regulations.

Two Regulations were made by His Excellency the Governor under sub-section (2) of s. 92 of the Government of India Act, 1935, during the period under review.

Regulation No. I amends the Santal Parganas Justice Regulation, 1893, by:—(i) setting up Courts of District Judge, Additional Judge and Subordinate Judges under the Bengal, Agra and Assam Civil Courts Act, 1887; and (ii) empowering the Court of Sessions to entertain appeals against sentence passed by the District Magistrate, Additional District Magistrate, or any other Magistrate of the First Class.

Regulation No. II seeks to remove doubts as to the validity of an order of Government superseding the District Board of the Santal Parganas from and after October 1, 1946.

8. CENTRAL PROVINCES AND BERAR.

[*Contributed by* Shri T. C. Shrivastava, *Deputy Secretary to Government.*]

During the year 1947 forty-eight Acts were passed. The important of these are classified under the following heads:—

Local Government.—Act I makes the village (Gram Panchayat) the unit of social, political and economic activity and provides for civil and criminal Village Benches (Nyaya Panchayat) with limited jurisdiction.

Act XIV invests the President with more executive powers. It provides for election disputes being decided by District Judge and establishes a municipal Service Commission for recruiting staff for all municipalities.

Sales Tax.—Act XXI imposes a tax on the sale of all goods other than those specially exempted.

Electricity.—Act V regulates the supply of electrical energy to consumers and empowers the electrical undertakings to levy surcharge on consumers to meet the increased cost of generation of electric power.

Cattle.—Act XVI imposes restrictions on the slaughter and movement of cattle.

Welfare of Labour.—Act XXII provides for the regulation of hours of work in shops, commercial establishments, restaurants, tea houses, theatres and other establishments and also for the grants of annual holidays with pay.

Act XXIII provides for the setting up of a machinery to solve industrial labour disputes.

Public Order.—Act XV provides for the constitution in aid of the police of a voluntary force to be used in time of emergency for the purpose of maintaining law and order.

Act XXXVIII (Public Safety) is an emergency measure. It arms the executive with extraordinary powers, e.g., of detention of persons for certain purposes, requisitioning and acquisition of property, control of Press and essential services, restrictions on persons in respect of wearing of uniforms, drills and parades, processions and assemblies, etc.

Castes.—Acts XXIV and XLI remove the social disabilities which are imposed on certain classes of the Hindu community commonly known as the Scheduled Castes.

Land Revenue.—Act XXX enhances the land revenue payable by proprietors of estates, *i.e.*, big land-holders of a certain class.

Act XXVI.—It enables the Provincial Government to increase land revenue payable by proprietors without enhancing the rents payable by their tenants.

Public Health.—Act XXVIII prohibits certain objectionable advertisements.

Refugees.—Act XXIX provides for the compulsory registration and movement of refugees coming into the Province.

9. ASSAM.

[*Contributed by* S. M. Lahiri, Esq., *Secretary to Government.*]

Income Tax.—Act I fixes the rates at which agricultural income shall be taxed under the Assam Agricultural Income Tax Act, 1939.

Motor Cars.—Act IV provides for control of commercial sales of new motor cars imported into Assam.

Maintenance of Public Order.—Act VII enables the Provincial Government to provide for preventive detention, imposition of collective fines, control of meetings and professions and of essential services connected with matters within the exclusively provincial legislative field for the maintenance in Assam of public order and of services essential to the life of the community.

Taxation.—Act VI levies a tax on professions, trades, callings and employments.

Commissions of Inquiry.—Act VII enables the Provincial Government to appoint Committees for the purpose of enquiry into matters of public importance, and to empower Committees so appointed to take evidence and administer oaths or solemn affirmations.

Shillong.—Act VIII extends certain enactments to the British portion of Shillong Town, and to make certain provisions for the better administration of justice in that area.

Electricity.—Act IX provides for the continuance of control in respect of production, distribution, use and consumption of electrical energy.

Sylhet.—Act X makes better provisions relating to the law of landlord and tenant in respect of non-agricultural tenancies in the urban areas of the District of Sylhet.

Primary Education.—Act XIII makes provision for the management and control of primary education, and to provide for compulsory primary education in Assam.

Committees of Legislature.—Act XIV invests Committees appointed by or in pursuance of Resolutions passed in either Chamber of the Assam Legislature with powers to enforce attendance of and to examine witnesses on oath or affirmation and to compel production of documents that are necessary for their inquiry and also to make provisions for punishment of persons who refuse to give evidence or produce documents before such Committees, on being duly required to do so.

Gauhati University.—Act XVI establishes and constitutes a teaching, residential and affiliating University at Gauhati.

Sales Tax.—Act XVII provides for the levy of a tax on the sale of goods in Assam.

Pure Food.—Act XXII makes provision for the prevention of adulteration of food and for other matters connected with the sale of food.

Opium.—Act XXIII prohibits consumption (except for medicinal purposes) and smuggling of opium in the Province of Assam.

Home Guards.—Act XXIV provides for the constitution of Home Guards.

10. NORTH-WEST FRONTIER PROVINCE.

[*Contributed by* THE SECRETARY TO GOVERNMENT.]

IN the year 1947 only one Session of the N.W.F.P. Legislative Assembly was held. It was the Budget Session which commenced on March 10, 1947, and ended on March 22, 1947. During the Session twenty-one official and one non-official Bills were discussed, and note is made of the more important passed into law.

Trade Employees.—Before this Bill took its final shape in the form of an Act (No. XX) there was no law in the N.W.F.P. to protect the rights and regulate the working conditions of persons employed in shops and Commercial Establishments. To achieve this object a Bill was introduced in the N.W.F.P. Legislative Assembly in the Autumn Session of 1946. Some of its principal features were:—

(1) A maximum of fifty-four working hours per week and ten hours per day was prescribed. In the case of a "young person" (one who has not attained the age of 14 years), however, it prescribed a maximum of forty-two working hours per week and seven hours per day.
(2) All shops and Commercial Establishments with a few exceptions noted in the Act should be closed for one day in a week.
(3) Wages should be paid for close days if the employees had to his credit continuous service of fifteen days or more.
(4) An employee with one year's continuous service should be entitled to leave for fourteen days with full pay. In the case of an employee with six months' continuous service seven days' leave with full pay should be admissible.
(5) Leave asked for should be granted within one month of the date of application.
(6) No employee should without sufficient cause be dismissed from service and unless and until one month's previous notice had been given or one month's pay in lieu thereof.
(7) Compensation was provided for wrongful dismissal.

Contravention of the provisions of the Act involved a penalty of Rs. 25/- for the first offence and Rs. 100/- for every subsequent offence. The Bill was referred to a Select Committee. In the Budget Session 1947 the report of the Select Committee was presented to the House in which the Committee recommended that the Bill be passed with slight modifications which were that weekly working hours might be reduced from fifty-four to fifty-one and that no lad below the age of 10 years should be employed. The recommendations of the Select Committee were accepted by the House.

Weights and Measures.—In order to encourage and facilitate trade transactions it was considered most important to legislate for the uniformity of weights and measures. The weights and measures varied from district to district and sometimes there was no uniformity even in the same locality, which hampered trade and had an adverse effect on the marketing operations. The standards of weights being a federal subject was legislated by the Central Government effecting the enforcement of the Standard of Weights Act, 1939, which lays down what the standards of weight should be, and which enable the Provincial Government to undertake legislation for the regulation of weights.

The question of measures rests entirely with the Provincial Government. The Bill provided that the standard weights which are prepared and supplied to this Government by the Central Government should be the primary standards of dry measures, liquid measures and measures of length, area and volume were also laid down in the Bill. These standards were already in general use in some parts of the Province. Provisions were made in the Bill for inspection, verification and stamping of the weight and measures. The Bill was introduced during the Autumn Session, 1946, of the N.W.F.P. Legislative Assembly and was referred to a Select Committee. The Committee presented its report in the Budget Session, 1947, where it was recommended that the Bill be passed without suggesting any material alterations in it. The Bill was passed and was assented to by Governor General on July 31, 1947.

Vaccination Law.—One of the primary duties of the State is to save people from the horrible effects of a disease like small pox. It was, therefore, considered desirable that vaccination should be made compulsory in the areas under the Control of District Boards in the N.W.F.P. also, as considerable difficulty was experienced to persuade people to have their families vaccinated in certain areas of the Province. The Vaccination Act, 1880, as applicable to this Province provided for the extension of its provisions to Municipal and Cantonment areas only. To achieve the said object, this Bill to amend the Vaccination Act, 1880, was introduced in the Autumn Session, 1946, of the N.W.F.P. Legislative Assembly and was passed. His Excellency the Governor, N.W.F.P. returned the Bill to the House for reconsideration as there was a technical defect in Clause 8 thereof. When it was again passed by the N.W.F.P. Legislative Assembly during its Budget Session, 1947, after omitting the defective clause altogether and became Act No. XI.

Municipalities.—The Punjab Municipal Act, 1911, as applicable to the North-West Frontier Province did not empower the Municipal Committees to draw up planning schemes. To give the Committee requisite powers it was necessary that s. 192 of the Municipal Act should be amended. This Bill was drafted primarily with this object in view. Amendment of the Act was, however, also desired to authorise Government to ask the Committees to contribute towards the maintenance of an Inspectorate, a Local Self-Government Board or a Department established to advise, assist and supervise the work of Local Bodies. S. 52 of the Act was therefore proposed to be amended on the lines of the Punjab Municipal Amendment Act III of 1933. Other amendments which had been added were either of consequential nature or were necessary to make the law up to date.

This Bill introduced in the N.W.F.P. Legislative Assembly during the Autumn Session of 1946 was, however, taken into consideration during the Budget Session, 1947, and became law as Act No. VIII.

District Boards.—To improve the finances of the District Boards in the Province it was considered desirable that the Provincial Government should have the power to enhance local rate, at least, within the limits prescribed by the Punjab District Boards Act as applicable to the Punjab. It was also considered desirable that the Local Self-Government Department, the main function of which is to assist, guide and supervise the work of the local bodies, should be included in the list of departments, a portion of the cost of which is equitably debitable to the District Fund for services rendered. It was, therefore, proposed that s. 5 and s. 37 of the Punjab District Boards Act, 1883 (as applicable to this Province) should be amended.

Like the preceding one this Bill was also introduced in the N.W.F.P. Legislative Assembly during the Autumn Session of 1946, but was taken into consideration during the Budget Session, 1947, and became law as Act No. XVI.

Land Acquisition.—The order of the Collector under s. 18 of the Land Acquisition Act, 1894, refusing to make a reference to the Court under s. 19 was not appealable. High Courts held that no revision petition should lie

against such an order under the Civil Procedure Code. The result is that no remedy is open to an aggrieved person under the said Act. Besides this, no procedure was prescribed in the Act for the disposal of applications made to a Collector under s. 18. He acted in his executive capacity and might reject an application without even hearing the person making it or assigning any reason for its rejection.

The Provincial Government considered it necessary to remove this lacuna in the Act in order to inspire greater confidence in the persons who are affected by the provisions of this Act. The present Bill prescribed the procedure to be followed by the Collector in the disposal of applications made to him under s. 18 of the Land Acquisition Act, 1894, and also provided a right of appeal to the Revenue and Divisional Commissioner, N.W.F.P., against the Collector's order to make a reference to the Court under s. 19 of the Act. Sub-section (5) of s. 4 of the Bill laid down that if, in the judgment of the Revenue and Divisional Commissioner, an appeal made to him was frivolous and without any just cause, he might direct that the appellant should pay to the Collector costs up to rupees 500 which should be recovered from him as fine or as arrears of land revenue. Sub-section (6) of the same Section provided that the order of the Revenue and Divisional Commissioner should be final and no further appeal, review or revision should lie against it. The Bill was passed as Act No. XIX.

Motor Vehicles.—The Provincial Government is empowered by No. XII to fix the prices of New Motor Vehicles which also lays down that no dealer should sell or otherwise dispose of a new Motor Vehicle except under and in accordance with a Sale Order issued in respect thereof by the Provincial Transport Controller. Contravention of the provisions of the Act is provided to be an offence punishable with imprisonment for a term which extends to three years or with fine or with both.

Orphanage.—It was a well-known fact that orphanages had been, and are being, run by some people more with a view to make income for themselves than because of purely humanitarian reasons. Apart from this it was known that in some cases healthy and normal children had been maimed and deformed purposely to render them pitiable in sight and thus made them object of charity. It was also observed that in some places children whose parents existed were kidnapped from some places and taken elsewhere to fill the orphanages for the purpose of such irregular business as stated above.

The important features of the present Bill were:—

(i) Licensing of the orphanages;
(ii) Reporting of the names and antecedents of the orphans admitted into the orphanages for the purpose of verification;
(iii) Proper maintenance of accounts.
(iv) Periodical medical examination of the orphans;
(v) Prohibition of begging by the orphans. It was hoped that this Bill, when it became law, would not only check the aforesaid evils, but would also indirectly improve the administration and financial position of these charitable institutions.

The Bill was introduced in the N.W.F.P. Legislative Assembly during its Budget Session, 1947, and was passed as Act XIV.

Experience had shown that the North-West Frontier Province Muslim Waqf Act, 1938 (Act I of 1939) had failed to achieve the object for which it was enacted. It provided that the members of the Provincial Waqf Board should be elected by the Muslim members of the Provincial Legislative Assembly. It also authorised the said Board to nominate members of the District Waqf Committees. This system had absolutely proved ineffective and it was felt that in the interest of the better governance and management of the Muslim Waqfs in the Province the Provincial Government should assume direct control over them.

An amendment was designed to achieve this object. The powers vested in the Provincial Waqf Board under the North-West Frontier Province Muslim Waqf Act, 1938 (I of 1939) are assigned to a Provincial Waqf Department which is included in the portfolio of one of the Muslim Ministers of the Provincial Government. The place of the District Waqf Committees was taken up by the District Waqf officer who will be appointed by the Waqf Department. Clause II of the Bill provided that the Waqf Department may appoint one Waqf Officer in charge of more districts than one if such a course was considered necessary in the interest of economy of expenditure and uniformity of control.

There were provisions in the Bill which aimed at keeping final control in the hands of the Muslim members of the Provincial Legislative Assembly in so far as the question of disbursement of income from the Waqfs was concerned. Part (c) of sub-clause (2) of clause (8) of the present Act laid down that the Minister in charge of the Waqf Department should prepare the final budget of the Waqf Department, the District Waqf Officer and the Mutawallis and present it to the Muslim members of the Provincial Legislative Assembly on a day to be set aside for this purpose during the Budget Session of the Assembly. It should be discussed and voted upon the same day and the decision of the majority of the Muslim members of the Assembly should be final.

The supervision over other affairs and activities of the Waqf Department by the Muslim members of the Provincial Legislative Assembly was also left intact. Clause 34 of the Act provided that there should be set aside a day in each Session of the Provincial Legislative Assembly on which the Minister in charge of the Waqf Department should present (to the Muslim members of the Assembly) a report on the working of the Waqf Department for the period succeeding the last Session of the Assembly. These provisions it was hoped would exercise a salutory check on the powers of the Minister in charge in administering the Waqfs in the Province.

It was noticed that the appointment of a separate Mutawalli for each Waqf was wasteful and uneconomical. Clause 25 empowers the Waqf Department to appoint one Mutawalli in charge of more Waqfs than one if it should consider it necessary to do so.

The Bill was passed and received the assent of the Governor General on July 31, 1947.

Requisitioning of Buildings.—Before the expiry of the Defence of India Rules on September 30, 1946, it was possible for the Provincial Government to requisition suitable buildings for rationing purposes, etc., under Rule 75A of the said Rules. Thereafter the Provincial Government in order to run the Rationing machinery whose importance in time of such a scarcity cannot be over-emphasised, considered it necessary to be armed with the necessary powers to requisition buildings for the purpose. As the Assembly Session at that time was not in Session the Governor, N.W.F.P., was pleased to promulgate an Ordinance called the N.W.F.P. Requisitioning of Buildings (Rationing) Ordinance, 1947, on February 25, 1947. This Bill which replaces the said Ordinance was introduced in the Budget Session, 1947, and was passed into law as Act IX.

House Rent Control.—Experience had shown that there was a lacuna in the N.W.F.P. House Rent Control Act, 1946. It did not give a right to the landlord to apply for ejectment of tenants on the ground that they want to carry out necessary repairs to the house or to reconstruct it or improve its rental value by putting another storey on it or to convert it into flats, etc. Again it places no restriction on tenants to sublet the house, whether in whole or in part. The jurisdiction of Civil Courts to entertain suits which could form the subject matter of applications under the Act was also not barred. The

object of Acts No. X was to remedy these defects. The main features were:—

(1) It prohibits sub-letting of houses by tenants without the previous permission in writing of the landlords.
(2) It empowers landlords to apply for ejectment of tenants on the ground that they want to carry out necessary repairs to their houses or to reconstruct them or improve their rental value by putting another storey on them or to convert them into flats, etc.
(3) Where a landlord ejects a tenant in order to carry out necessary repairs to the house he shall, on completion of the repairs, offer the first choice to the original tenant to rent the same house on payment of such rent as may be fixed by the Controller.
(4) The jurisdiction of Civil Courts in respect of matters which can form the subject matter of applications under the North-West Frontier Province House Rent Control Act, 1946, has been barred.

Kohat Mazri Control.—Experience showed that the existing provisions of the Kohat Mazri Control Act, 1938, were insufficient to achieve the object of the Act, namely to protect, preserve and control Mazri produce. The definition of the term "Waste land" in the Act was narrow in its conception, as it excluded graveyards, sacred places, land recorded at Settlement as part of the villages site and land shown as "Khali" and "Banjir Jadid" in the annual records. Moreover, courts of law had held that s. 3 of the Act empowered Government to fix periods of closure and to prohibit transport during these periods, but did not empower it to limit or prohibit transport at all times. It was also held that s. 4 of the Act empowered the Collector to fix and control markets for the sale of Mazri produce, but did not empower him to control dealings outside the markets he had fixed.

Act XVII aimed at remedying these defects.

Its main features were:—

(i) The term "waste land" has been redefined so as to bring within the scope of the Act Mazri growing in the premises of graveyards, sacred places and in all uncultivated land except reserved forests, and land recorded at settlement as part of the village site. Public opinion is ripe for this change.
(ii) S. 3 of the Act has been amended so as to empower the Provincial Government to determine under whose authority, by what means, and to what extent Mazri produce may be transported at any period.
(iii) The Provincial Government has been empowered to fix the maximum quantity of Mazri which any person may possess at one time.
(iv) The Collector will be able to control dealings in Mazri outside the markets fixed by him.
(v) Search for and seizure of Mazri illegally stored.

Sales of Motor Spirit.—Sub-section (1) of s. 3 of the original Act laid down that:—

(1) There shall be levied and collected from every retail dealer a tax on the retail sales of motor spirit at the rate of Rs. 0-1-3 per imperial gallon.

This sub-section provided to levy a tax at the rate of Rs. 0-1-3 (anna one and three pies) per imperial gallon. This tax was raised to Rs. 0-1-6 (anna one and six pies) by the N.W.F.P. Sales of Motor Spirit Amendment Act, 1946. The Provincial Government proposed to raise the said tax to Rs. 0-3-0 (three annas) per gallon, as it had already been raised in some other Provinces with a view to achieve an addition in the revenues of the Province. The Bill was passed as Act XVIII.

Electricity.—Since the commencement of the war the Electric Supply Undertakings had not been able to extend, review or replace their installations. In

the meantime demand had increased on account of war activities and post-war schemes which had given impetus to industrialisation. A certain amount of rise in the standard of living had also created extra demand which had resulted in the demand for electricity in certain areas of supply now far exceeded the supply. Though since the termination of hostilities, there had been some improvement in the supply position of electrical materials, there was still acute shortage of electricity generating plant and fuel generally.

Under the Indian Electricity Act, 1910, the electric supply licensee was bound to give connections to those who apply for them. For the reasons stated above it would still take some time before the electric supply undertakings were in a position to meet the full demand without any control. During that period it was essential that whatever electricity was available should have been used in the best interests of the community as a whole and, therefore, preference should have been given to more essential purposes than others and the purpose and time of such utilisation should have been regulated. The Electric Inspector to Government had certain powers, but they were not enough for all the control that was necessary.

In the circumstances stated above, Government felt that they should have powers to exercise control in the emergency caused by the time lag between the demand and the supply. They considered that such control would be necessary for another two years from the date the Defence of India Rules, as subsequently continued by the Emergency Provision (Continuance) Ordinance No. XX of 1946, expire. It was, therefore, proposed that the Provincial Government should take necessary powers for a period of two years from March 26, 1947. Act XXI for the continuance, during a limited period, of powers to control the production, supply and distribution of electricity was passed accordingly.

Motor Vehicles Sales Tax.—The expansion of the beneficent Departments of the Provincial Government necessitated tapping of new sources of income to meet growing expenditure. Act VI aimed at levying a tax at the rate of 5 per cent. on the sale price of new motor-cars, lorries, motor-cycles and auto-cycles in the North-West Frontier Province. It was estimated that during the last three years, when new cars were to be had with great difficulty, their sales in the Province was amounted to Rs. 2.8 lacs. It was hoped that with the anticipated increase in the imports of cars, etc., from the manufacturing countries overseas, business in their purchase and sale would show a marked progress over the figures for the last three years. The proposed tax, according to the Provincial Government's calculation, will bring substantial revenues without causing any hardship to the poor.

Legislative Assembly.—Doubts had arisen as to whether a member of the Provincial Legislative Assembly could draw honorarium from the Provincial revenues for serving on an enquiry committee appointed by the Provincial Government without incurring the disqualification prescribed by clause (a) of sub-section (1) of s. 69 of the Government of India Act, 1935. The object of Act XIII was to remove such doubts and to empower the Provincial Government to pay honorarium to the members of the Provincial Legislative Assembly whose services might be utilised on enquiry committees, etc.

Essential Articles Control.—Before the expiry of the Defence of India Rules it was possible for the Provincial Government to regulate the movement of any essential articles under the said rules. As the rules were then lapsed, the uncontrolled movement and rising of prices of certain articles, other than those whose movements are regulated by the Essential Supplies (Temporary Powers) Act of 1946 (Act No. XXIV of 1946), necessitated the legislation of such measures. Act XV empowered the Provincial Government to control the prices and movements of the commodities concerned.

11. ORISSA.

[*Contributed by* C. C. COARI, ESQ., *Secretary to Government.*]

DURING the year 1947 thirty-six Acts were passed by the Provincial Legislature and the Ordinances promulgated were two in number. Besides these, three Regulations were made by the Governor under s. 92 (2) of the Government of India Act, 1935. The subject on which legislation was undertaken during the year may broadly be outlined thus:—

Education.—Two Acts (IX and XXIX) were passed amending the Utkal University Act of 1943 extending the territorial limits of the exercise of its powers by the University to all Oriya-speaking States called the " Affiliated " States and at the same time providing for their representation in the Senate.

The Madras Elementary Education Act, 1920, was amended by VI and adapted for the purpose of its application to the Province of Orissa.

Forests.—In order to avoid progressive denudation of forests an important Act, the Orissa Preservation of Private Forests Act, 1947, No. VIII, was passed. It aims at the prevention of shortage of timber for firewood and prohibits the alienation of private forests in any manner and declares any such alienation as null and void. Thus it provides a strict measure of Government control in the matter of preservation of such forests and the indiscriminate destruction thereof.

Business, Trade and Industries.—The business of money-lending was further controlled by the passing of two amending Acts, Acts XVIII and XXVII of 1947, by defining the money-lender to be a person who advances loans in the regular course of the business of money-lending.

The Bihar and Orissa State Aid to Industries (Orissa Amendment) Act, No. XXII, provides for the grant of subsidy to different industries and relaxes certain provisions of the parent Act in their application to cottage industries and other small industries by way of facilitating the securing of advances from the Government.

Legislation was also effected for the better regulation of Stage Carriage and Public Carrier's Services in the Province of Orissa by means of the Motor Vehicles (Regulation of Stage Carriage and Public Carrier's Services) Act, 1947, No. XXXVI.

Housing.—The Orissa House Rent Control Act, 1947, No. V, amended by XXI, was passed in order to control the rent of houses and prevent unreasonable eviction of tenants therefrom.

Local Self-Government.—Several legislative measures, Nos. II, III, IV and XIII, were adopted for the better functioning of different local bodies. The District Boards were vested with certain powers in respect of industries and factories.

Land Tenure.—The Orissa Tenancy (Amendment) Act, and the Madras Estates Land (Amendment) Act No. XIX are the two important pieces of legislation under the head. They aim at giving further protection to the tenants in general.

Social Legislation.—The keen public demand for the removal of certain gross inequities with respect to certain classes of Hindus led to the passing of a very far-reaching piece of legislation in the shape of the Orissa Temple Entry Authorisation and Indemnity Act (No. XI).

Another very important measure was adopted with regard to opium smoking by the Orissa Opium Smoking Act, No. XVI. It controls and penalises the practice of opium smoking, prevents the assembling of persons for the purpose of such practice and aims at securing the ultimate prohibition of this dangerous vice.

Taxation and Revenue.—With a view to add to the revenues of the Province several measures of taxation had to be adopted, the most important of these

being the Orissa Sales Tax Act, No. XIV and the Orissa Agricultural Income-Tax Act, (No. XXIV).

The Orissa Stamp (Surcharge Amendment) Act (No. XXIII) and the Orissa Court Fees (Surcharge Amendment) Act No. XX will also fall under this head.

Control of Supplies.—The Orissa Essential Articles Control and Requisitioning (Temporary Powers) Act, No. I, provides for the continuance, during a limited period of two years, of powers to control the production, processing, supply, distribution, transport and prices of essential articles as defined in the Act and of trade and commerce therein and for requisitioning of property.

12. SIND.

[*It is hoped to publish the review in the next issue.*]

13. COORG.

[*Contributed by* THE CHIEF COMMISSIONER OF COORG.]

Municipalities. —The demands on the finances of the municipalities in Coorg are increasing day by day particularly in the shape of dearness allowance to their employees. Even though the municipalities were paying dearness allowances at rates lower than those paid by Government, it was not possible to meet the demand out of the existing income, and consequently grants-in-aid were being given by Government to meet a portion of the demand. The expenditure had also increased in other directions with the result that municipal authorities found it impossible to carry on unless their finances were improved. It was therefore decided to levy an octroi on goods brought within the limits of the municipality for consumption or use within those limits. Though there was provision for the levy of such an octroi under s. 35 (a) (vi) of the Coorg Municipal Regulation, 1907 (II of 1907), this had been rendered ineffective as goods or animals brought on motor vehicles were exempt from taxation according to Schedule I of the Coorg Motor Vehicles Taxation Act, 1932 (Coorg Act No. I of 1932). Unless this exception to s. 35 (a) (vi) of the Coorg Municipal Regulation, 1907, exempting goods or animals brought on motor vehicles was removed, there was not much chance of the municipalities realising an appreciable income by the levy of octroi as most of the goods finding their way into the municipalities nowadays were brought on motor vehicles. Both the municipalities of Mercara and Virajpet therefore strongly urged for the removal of this exception.

It may be stated here that the intention of the Coorg Motor Vehicles Taxation Act, 1932, as in the preamble to the Act, was to abolish the levy by the local bodies in Coorg, of tolls and taxes on motor vehicles and to impose a provincial tax on such vehicles; but it was not clear as to why the power of the municipalities to levy taxes on *goods* brought on such vehicles was also removed. At the time of the passing of the Coorg Motor Vehicles Taxation Act, 1932, the municipalities were not levying any octroi and as motor traffic was then still in its infancy particular attention was apparently not paid to the effects of this exception. The legislature could not have intended to take away the power of the municipality to levy octroi on goods.

The Indian Taxation Enquiry Committee of 1924-25 in paragraphs 398 to 406 of their report had condemned the impositon of octroi and had stated that this kind of taxation could be replaced by four possible means, viz.: (*a*) a tax on land and houses, (*b*) a profession tax, (*c*) market dues and taxation of private markets, and (*d*) a tax on retail sales. The first three kinds of taxes were already being levied in the municipalities. The question of levying a tax on retail sales had not so far been examined, but this was taken up. It may be however stated here, that the Indian Taxation Enquiry Committee were not

wholly against the levy of octroi. In paragraph 409 of their report they had enunciated certain general principles governing the levy of octroi, if in individual cases it was not found possible to adopt any of the above four alternatives, and had stated that those principles should be enforced in levying octroi, if not by legislation, at least by executive order. The main points urged by the Indian Taxation Enquiry Committee in the matter of levy of octroi were that the rates of taxation should be low in all cases and especially so in the case of necessaries of life and articles which were subject to Imperial or Provincial taxation; that arrangements should be made for prompt refunds on exported goods and for bonding goods intended for through transit; that the staff should be properly paid and efficiently controlled by an official agency, with which the elected representatives should have no power to interfere; that tax should not be levied on goods imported and re-exported without break of bulk; and that the power to approve the rates of tax should be kept in the hands of Government. These instructions would be followed while sanctioning the levy of octroi by the municipalities. The Mercara Municipality expect an annual income of Rs.15,000 by the levy of octroi if the exception in the case of goods brought on motor vehicles was removed. The Virajpet Municipality could also expect the same income if not more. All possible avenues of taxation had been explored and utilised with the exception of the one mentioned above, viz., tax on retail sales, which is being examined. In the meanwhile it was intended to allow the municipalities to levy octroi. Such octroi is being levied in the municipalities of the Mysore State. This Act was passed to give effect to the above intention.

Land and Revenue.—Under s. 45 of the Coorg Land and Revenue Regulation, 1899 (I of 1899), the alienation of lands of which the land revenue had been wholly or partly assigned or released by sale, gift, mortgage or otherwise, was prohibited except with the permission of the Assistant Commissioner recorded in each case in writing. Following this section and the decision of the Judicial Commissioner of Coorg in Second Appeal of No. 7 of 1921—P. Monnappa *vs.* P. Ponnappa—Government used to interfere in cases where lands of privileged tenure were released by one member to another member of the family of the original grantee of such lands without the consent of all the adult male members of the family. But on the finding of the Judicial Commissioner of Coorg in a case in 1937 where it was held that Government interference in the case of alienation of lands of privileged tenure within the family of the original grantee of such lands was not justified, executive orders were issued allowing release of lands of privileged tenure within the family on condition that all the adult male members of the family having interest in the property released agreed to the transaction. Later judicial decisions pointed out that even this restriction was not warranted by s. 45 as it stood at present, and that therefore consent of all interested male members of the family was not necessary for release within the family. Accepting these judicial decisions this Administration allowed the release of privileged lands within the family of the original grantee even without the consent of all adult male members having interest in the property alienated, provided the transaction did not involve a separate registry of the lands alienated. The result was that the releases were made freely regardless of the objection of the members having an interest in the share released. This had prejudiced the interests of Coorgs and other jama tenure holders to a great extent. Many widows having no male issues were found to alienate the jama lands of their husbands on release to well-to-do persons in the family spending the money thus realised extravagantly. Influential and affluent members of the family thus found it easy to appropriate to themselves most of the family lands to the prejudice of the interests of the poorer members of the family. In order to remedy these defects representations were received from jama tenure holders that s. 45 may be amended prohibiting the release of lands of privileged tenure within the family without the consent of all the interested members. In order to give effect to

these representations and safeguard the interests of the poorer members of the family of jama holders, s. 45 of the Land and Revenue Regulation has been revised in s. 2 of No. 2.

The Coorg Land and Revenue Regulation did not contain any provision to set aside sales of immovable property for the recovery of arrears of land revenue if the defaulter deposits the arrears due by him within thirty days from the date of sale of the property. Resolutions were passed several times in the Coorg Legislative Council to amend the Coorg Land and Revenue Regulation so as to enable the setting aside of sales of immovable property for recovery of arrears of revenue on the defaulter depositing the arrears plus a small percentage of the purchase money to compensate any loss which the purchaser might have incurred. The Government considered this as a wholesome suggestion which would go far to help the holder to retain the land. S. 37A of the Madras Revenue Recovery Act, 1864 (Madras Act II of 1864) contains similar provision. Hence by s. 3 of this Act a new section 100A has been added to the Coorg Land and Revenue Regulation on the lines of s. 37A of the Madras Revenue Recovery Act.

S. 4 of the Act makes some amendment to s. 103 which is consequential to the insertion of the proposed new section 100A.

14. BURMA.

[*Contributed by* U CHAN TUN AUNG, *Assistant Attorney-General, Burma.*]

THE year 1947 may be characterised as a year of great legislative activity. The Proclamation issued by the Governor dated the 10th day of December, 1942, suspending some of the provisions of the Government of Burma Act, 1935, continued to be in force, and by virtue thereof the Governor exercised the legislative powers which were ordinarily vested in the two Chambers of the Burma Legislature. The Government of Burma (Temporary Provisions) Act, 1945, provides for the constitution of councils or bodies or other authorities for the purpose of associating with the Governor in the exercise of his legistlative functions. In pursuance thereof, a Legislative Council consisting of some 50 members (mostly old members of the legislature) nominated by the Governor to advise him in the exercise of legislative powers, was duly constituted. Executive Councillors were also included in this body. Throughout the year 1947, this body functioned as legislature. The year being one preceding the declaration of Independence, some of the legislative activities were in the nature of preparation for a set-up befitting an Independent State. Pressing post-war problems of reconstruction and rehabilitation persisted and it was felt that emergency provisions which were necessary during the war period should continue in the post-war period inasmuch as the ordinary administrative machinery was found to be inadequate and ineffective.

In all 88 Acts were passed, 46 of which are amendment Acts and 3 are Repealing Acts.

Defence of Burma.—No. IV repeals subject to certain reservation the Defence of Burma Act, 1940, and the rules thereunder. Provisions of Sections and Rules specified in the Schedule annexed to the Act are kept alive with some modifications until the Governor by notification declares that the said provisions are to be no longer in force, or until the date whichever is earlier, on which the Defence of Burma Act, 1940, expires by efflux of time, *i.e.*, six months after the termination of the War. S. 5 empowers the Governor to cancel or amend any rules specified in the second Schedule, annexed to the Act or any other orders made under the provisions of the Defence of Burma Act and Rules specified in the schedules, for so long as the provisions of the Defence of Burma Act, 1940, remain in force.

Of the 44 Amendment Acts, only the following need be discussed:—

Special Judges.—No. III amends by substituting a new sub-section 2 to s. 6 of the Special Judges Act, 1946, giving a right of appeal to a person convicted and sentenced to an imprisonment for a term not exceeding four years at a trial held by the Sessions Judge who is not a Sessions Judge or an Additional Sessions Judge, to the Court of Sessions.

Further amending Acts were enacted to the Special Judges Act in respect of the procedure and the right to a *de novo* trial—see Nos. 15, 67 and 77.

Land and Revenue.—Nos. VI, VII and VIII effect certain important amendments to the Land and Revenue Laws, whereby rights of any owner to or occupier of any land, if infringed by the occupation or disturbance of the surface of the said land, either by the Government in the exercise of certain rights and powers, or by any person to whom the Government has disposed of such rights and powers are protected and the owner or the occupier of such land is paid such compensation as nearly as may be in accordance with the provisions of the Land Acquisition Act.

Rent Control.—No. XIV amends the Urban Rent Control Act, 1946, by substituting some new sections enabling a tenant to apply to the Controller of Rent after due notice to the Landlord to make certain repairs or to take measures for due maintenance of supply of water or electricity or drainage service, etc., of the premises in his occupation. Failure or neglect on the part of the Landlord to comply within reasonable time, the Controller can permit the tenant, after considering the estimate of cost of repair that may be submitted by him to make such repairs or to take such measures, as the case may be, at a cost not exceeding such amount specified in the Controller's order.

Provisions are also made conferring the right of appeal, on law and facts against the decree or order made by any Judge of the City Civil Court of Rangoon, or any District Judge outside Rangoon. No Court is to accept the plaint in a suit for the recovery of land or premises after the enactment of the Act, unless a certificate issued by the Controller certifying the standard rent of the premises has been attached to the plaint.

Stamp Laws.—No. XIX seeks to validate all instruments executed between November 1, 1946, and December 31, 1946, deeming that they have been sufficiently stamped, if they have been stamped with the stamps of the value prescribed under the Burma Stamp Act, notwithstanding the provisoins of s. 2 of the Burma Stamp (Amendment) Act, 1946.

Aircraft.—No. XXI amends Burma Aircraft Act, incorporating additional sections by which the Governor is empowered to regulate air transport services; prohibit the use of aircrafts in such services except under the authority of, and in accordance with the licence furnishing such information to such authority as may be specified in the rule. Additional powers are given to the Governor to make rules for protection of public health against the introduction or spread of disease by the agency of aircraft, persons travelling, or things carried therein, and also the aerodromes.

The Village Administration.—No. XXIX makes substantial amendments to the Village Act which has been in force for nearly 40 years in Burma. By this amendment the appointment of Village Headman of every village tract by election can be set aside by the Deputy Commissioner, if it is found that the candidate is unqualified by reason of his character or resident or of any physical or mental disqualification, or of being below the age of 21 years or of being above 55 years of age, or of by the exercise of undue influence of intimidation at the election, or if he fails to furnish the prescribed security. The Deputy Commissioner is further empowered to terminate the appointment of any headman already appointed before the amendment Act came into force by giving him three months' notice in writing.

Other amendments relate to the powers, functions and duties of the headman

for purposes of suppression of crime, promotion of health and measures to execute work for the protection of villages in his charge and also to provide guides, messengers, porters, supplies of food, carriage and means of transport for any troop or police posted in or near, or marching through the village tract upon receipt of payment at such rates as may be fixed by the Deputy Commissioner of the district concerned.

Bar Council.—No. XXXII is a minor amending Act, which prohibits the publication of any report or account of any enquiry before a Tribunal or the Court of the District Judge relating to any alleged misconduct of an advocate without previous permission in writing of the President of the Tribunal or the District Judge, as the case may be.

Crime—Penal Law.—No. XXXIII makes important changes as respect the offence of culpable homicide and the graver offence of murder for which death penalty can be imposed. Before the amendment, a death sentence would ordinarily be given under ss. 302 and 303 of the Penal Code, if the offence of murder, which comes within the purview of s. 300 is committed. Now under the amendment, the death sentence would only be given under s. 302 when murder is committed under the following circumstances:—

> When the offender is under sentence of transportation for life, or when the offender commits murder with premeditation, or when the offence is committed in the course of committing any offence under the Penal Code punishable with seven years' imprisonment.

In other cases of murder, the offender will be punished with transportation for life or with imprisonment not exceeding ten years.

No. LXII, a temporary amendment Act to the Penal Code and Criminal Procedure Code, which imposes the death penalty or transportation for life for offences under ss. 394, 395 and 396 of the Penal Code. It also enables the Governor, by issue of notification to prescribe the manner in which the death penalty imposed is to be carried out. (See also Amendment Act No. LXXIV.)

No. LXIV imposes the death penalty upon any person, who, in contravention of s. 19, clauses (*e*) and (*f*) of the Arms Act, is found in possession of a machine gun, bren gun, tommy gun, sten gun, American carbine, hand grenade or any other arms of the description which the Governor may declare by notification in that behalf.

Pending Cases of Indian Courts—High Court Jurisdiction.—No. XXXIV confers jurisdiction to the High Court of Judicature at Rangoon to continue at Rangoon the trial of any suit or proceeding instituted or preferred in the High Court or Chief Court in British India, by virtue of the provisions of the Indian Courts (Burma Jurisdiction) Act, 1943, and to confirm or make absolute any decree for dissolution or nullity of marriage which has been pronounced by the High Court or Chief Court in British India under the provisions of the Burma Divorce Act where such decree has not been confirmed or made absolute.

It further enables the High Court at Rangoon to hear and determine any proceeding arising out of grant of Probate, Letters of Administration or Succession Certificate made by the High Court or Chief Court in India.

Trade Disputes.—No. XXXV effects substantial amendments to the Trade Disputes Act and enables the Governor to appoint Conciliation Officers and constitute an Industrial Court for arbitration of trade disputes. The award given by the Industrial Court is made binding on the parties concerned; and no Court can call into question any award made by the Industrial Court. Conciliation Officers are appointed by the Governor charged with the duty of mediating in, or permitting the settlement of trade disputes for a specified area or for a specified business, industry or undertaking. Such officers are empowered to enter the premises occupied by any industry, business or undertaking, after giving reasonable notice for enquiring into any existing or apprehended trade disputes. They

can call for and inspect any document relevant to the trade disputes. They are deemed to be public servants within the meaning of the Penal Code.

Divorce.—No. LXIX gives a wife a right to present a petition for divorce to the District Court or to the High Court on the grounds that since the solemnisation of marriage, her husband has changed from the Christian religion to other religion, or has gone through a form of marriage with another woman or on grounds of adultery, rape, sodomy or bestiality.

The following Acts of substantive character were passed during the year:—

Document Registration.—No. IX permits the registration of a document executed during the emergency period (commencing from the first day of December, 1941, and ending with the date of the promulgation of the Act or the date on which the Registration Officer reopened the Registration Office, subsequent to the re-establishment of Civil Government in Burma whichever is later), without payment of penalty or fine prescribed under the Registration Act, if the document for registration is presented within four months after the termination of the emergency period. In respect of the document executed during the period of four months prior to the emergency period, registration will be accepted on payment of such penalty or fine as may be prescribed under the Registration Act. Documents in original already registered under the Act, and uncertified signed copies of the documents, which were already registered before or during the emergency period, but the originals of which were lost, can be tendered and placed on records in the manner prescribed by the Governor where the official registered books concerned are lost or destroyed in consequence of the war.

Interest.—No. XI stops accrual of interest payable in respect of any contract of loan, mortgage (other than usufructuary mortgage) made in Burma before the 5th day of May, 1942, for the period which falls within the 8th day of December, 1941, and the day fixed for the reopening of Courts in Burma under s. 7 of the Courts (Emergency Provisions) Act, 1947.

Election.—No. XIII provides for the appointment of Commissioners to hold an enquiry, having powers which are vested in the Courts under the Code of Civil Procedure, to hear and determine election dispute cases arising out of the election for the Constituent Assembly which was to decide the future constitutional status of Burma, in consequence of an agreement reached between a Burmese delegation (led by the late U Aung San) and His Britannic Majesty's Government in England.

Law and Order.—No. XVI followed up by two subsequent amendment Acts Nos. XXVIII and LXXIX, popularly known as *"POPA"* (Public Order (Preservation) Act) re-enacts, with certain modifications, Defence of Burma (1940) Rules 26 and 27. War-time emergency measures are still necessary and with a view to preservation of peace and order in certain areas, the Act empowered some members of the Armed Forcse, serving in Burma, to exercise some police powers. First class Magistrates are empowered to try criminal cases in a summary manner. Deputy Commissioners, authorised by name by the Governor, are empowered to impose fine, confiscate or destroy properties in any village tract where there is activity or where there is conspiracy to create the disturbance of public peace and tranquility. Police Officers, Commissioners, if authorised by the Governor, are empowered to arrest without warrant any person whom such officers suspect of having acted, of acting, or of being about to act in a manner prejudicial to the public safety and maintenance of the public order.

Wide powers of detention are also given to high-ranking Police Officers of persons who are likely to create disturbance of public peace and order. Direction can be issued requiring a person to remain within a certain area specified in the order, and to notify his movements. Contravention to these orders and directions entails heavy punishment. Direction can also be issued by the Governor

to allow a person to have himself photographed, finger, thumb impression and specimen hand-writing taken.

By general or special order, the Governor can prohibit in any area exercise, movement, evolution or drill of military nature, the wearing in public any dress or article of apparel resembling any uniform worn by the members of His Majesty's Forces or any member of the Police Force.

Railway.—No. XXII authorises the Burma Railways Board to frame a scheme for the operation, maintenance and control of motor transport services for passengers, animals and goods with termini at or near a railway station. The scheme is subject to such modifications and conditions as may be prescribed by the Governor. The scheme shall set out the routes of motor transport operation, the probable frequency of services, the probable date on which it is to come into force, the places where the motor transport services will carry local passengers and goods and the places where the motor transport services will be operated.

Agricultural Debts Moratorium.—No. XXIV declares a moratorium in respect of agricultural debts contracted before the resumption of civil Government in Burma, *i.e.*, before the 16th day of October, 1945. By s. 4, all creditors to whom the agricultural debt is owing are required, within six months from the commencement of the Act, to register with the Deputy-Commissioner of the district where the agricultural debtor resides with the following particulars, viz.:—(*a*) the place where the agricultural debtor resides and (*b*) the amount and particulars of his claim against such agricultural debtor. S. 5 prohibits the Civil Court from entertaining any suit in respect of any agricultural debt if the creditor fails to register under s. 4.

Immigration (Emergency Provisions).—No. XXXI prohibits entering into Burma without an immigration permit issued by the Controller or a passport visaed or endorsed by a competent authority. Exception is made as regards a British subject domiciled in the United Kingdom, so long as British subjects domiciled in Burma are not restricted under any law of the United Kingdom in their entry thereto. S. 4 prescribes the condition for issue of immigration permits, passport, etc. S. 5 requires a master of a ship or captain of an aircraft to supply information on a form prescribed giving particulars in respect of passengers carried by them. S. 7 authorises detention of illegal entrants without the necessary permit. S. 9 exempts person in the diplomatic service. S. 10 empowers the Controller or any police officer to arrest without warrant any person who contravenes the provision of the Act. S. 11 prescribes the fee for an immigration permit. S. 13 defines the offences and s. 14 empowers the First-Class Magistrate to try such offences and s. 15 gives the rule making power to carry out the purpose for the Government.

The Japanese Currency — Evaluation.—No. XXXVI prescribes the value of war-time Japanese currency notes in terms of legal currency of Burma notes and coins for the discharge of any debt incurred during the period of the Japanese occupation of Burma. A schedule is annexed with a scale of evaluation of Japanese currency notes, in respect of the discharge of such debt for specified period—

Requisitioning.—No. XXXVIII with a subsequent amending Act No. LV empowers the Governor by issue of an order in writing to requisition any land, building, premises, fixtures, fittings, furniture or things, etc., for the use of a public servant or for the work connected with the Government. By ss. 4 and 5 the requisitionings during the Military occupation period under the Defence of Burma Rules were continued, and deemed to have been made under this Act. S. 6 provides for setting up a Tribunal for determination of compensation payable in case of difference between the Government and the owner of the requisitioned property.

Protection of Public Utilities.—No. XLI re-enacts the Defence of Burma (1940) Rules 6, 7, 8 and 8A (since expired) for the protection of public utilities against

interference by any person, or damage, destruction or removal by any person of stores or equipment or other property belonging to, or consigned to His Majesty's Forces, or the unlawful approach of any person in the neighbourhood of any building, place or property, vehicle, machinery apparatus used or intended to be used for the purpose of Government. The offender is liable to be punished with heavy terms of imprisonment.

Foreign Exchange Regulation.—No. XLIV re-enacts the repealed Defence of Burma (1940) Rules 91, 92, 92A, 92B, 92C, 92D, 93 and 94. It restricts the dealing in foreign exchange. Only dealers authorised by the Controller are permitted to deal in foreign exchange. S. 6 restricts payment to or for the credit of any person resident outside Burma, and also the drawing, issuing or negotiation of any bill of exchange or promissory notes in favour of any person outside Burma which involves foreign exchange. S. 9 restricts the import and export of certain currency and bullion into or from Burma without special written permission of the Controller. S. 10 enables the Governor by an order to direct any person resident in Burma who owns foreign exchange specified in a notification, or who is entitled to assign or procure the assignment of any right to receive such foreign exchange to offer it for sale to the Controller at such prices as may be fixed. Provisions are also made enabling the Governor to regulate the use or disposal of gold, silver imported into Burma, and the payment for exports, the transfer of securities from Burma to other foreign countries, their custody, the right of the Governor to clear foreign securities, the power of the Governor to call for information relating to any foreign exchange or foreign securities, books of account, documents and any other information connected therewith. Ss. 23 and 24 prescribe penalties for contravening any provisions of the Act, or any rule, direction or order made thereunder. S. 25 places the burden of proving that the requisite permission under the Act has been obtained upon the person who is prosecuted.

Air Force.—No. XLV is somewhat on the lines of the English Air Force Act, making provisions for enrolment, discipline, administration, offences, arrest, trial and constitution of a court-martial in respect of persons who join the Burma Air Force under the Act. The main object of the Act is to form a regular Air Force in Burma to be in readiness when Burma becomes an Independent State in the following year, as the Burma Volunteer Air Force (Discipline) Act, 1941 (Burma Act No. III of 1941) a temporary Act enacted by the Governor under s. 43 of the Government of Burma Act, 1935, was entirely inadequate for the formation of a new regular Air Force in Burma.

Banker's Books Inspection.—No. XLVI enables the Inspector-General of Police or the Commissioner of Police to inspect any book belonging to, or under the control of the Bank, or direct the manager of the Bank to supply a certified copy thereof, or prohibit such manager from making any payment to the person concerned without the order of the officer making the prohibition. The Act is designed to take effective measures against persons who are suspected of having concerned in subversive activities against the Government and who are to be detained under the Public Order (Preservation) Act, 1947.

Essential Supplies and Services.—No. XLVII re-enacts the expiring rules (the Defence of Burma Act, 1940) 81, 82, 83 and 83A. Act. LXI makes further amendments to the Act. Wide powers are given to the Governor for the maintenance of supplies and services essential to the life of the community to make regulations in many matters such as controlling of prices, rates, registration of vessels, controlling of rents, requiring person to carry on any undertaking, to keep books of account, records and many various other activities primarily aimed at the reconstruction and rehabilitation of the whole country. Wide powers are also given to requisition any animal product or thing for maintenance of supplies and services essential to the life of the community on payment of certain compensation as may be determined by the Governor. By s. 9 eleven orders

issued under the Defence of Burma Rules, 1940, are kept alive as if such orders have been issued under the said Rules.

Entertainment Tax.—No. XLVIII (see also amendment Acts No. LXX and LXXXVIII) seeks to levy tax on every payment for admission to any entertainment specified in s. 3. "Entertainment" includes any exhibition, performance, or amusement to which persons are admitted on payment. No entertainment tax is leviable for any entertainment where the whole of the payment for admission is devoted to philanthropic or charitable purposes, or where the entertainment is wholly of an educational character, or partly educational or partly scientific not connected with profit nor gain.

Cattle Slaughter Prohibition.—No. LII prohibits slaughtering of cattle (defined to mean bullock, bull, cow, calf, buffalo (male or female) or buffalo calf) without specific permission by a competent authority. Whoever contravenes is punishable with imprisonment. This measure was found necessary owing to depleted live-stock essential for agricultural farming in consequence of wanton killing for consumption by the Japanese Forces during their occupation.

Import and Export Control.—No. LVI empowers the Governor to make provisions for prohibiting, restricting or otherwise controlling the import and export of goods of specified description into any port or place in Burma or to be taken out of Burma. The goods to which the restriction is imposed are deemed to be restricted goods within the meaning of s. 19 of the Sea Customs Act.

Finance.—Nos. LVII, LVIII and LIX prescribe new enhanced rates for income-tax and super-tax, duty on salt manufactured in or imported into Burma, duty on motor spirit, sugar, liquor, matches, betting tax and inland postal rates on parcels, letters and post-cards.

Banking.—No. LX establishes a State Bank in Burma under the name of Union Bank of Burma, the head office being in Rangoon. The authorised capital is four crores of rupees. The general superintendence and direction of the affairs of the Bank are entrusted to a Board consisting of seven Directors nominated by the Governor. The business which the Bank may transact is specified in the first schedule to the Act, and the second schedule sets out business which the Bank may not transact. In addition to the business set out in the schedule, the Bank undertakes to accept monies on account of the Government on such conditions as may be agreed upon. The Bank is at intervals obliged to send to the Governor a return signed by two responsible officers, the amount of its demands and the liabilities, the total amount held in Burma notes, currency notes, rupee coins, the advances, and bills discounted in Burma, and the weekly balance at the close of the business on each Friday. The Bank is exempted from income-tax and super-tax on its profits or gains. The Bank is also obliged to publish, from time to time, the rates it prepares to deal in bills of exchange, and other commercial papers. The Auditors of the Bank are to be appointed by the Governor.

Electricity.—No. LXIII is a legislative measure for the nationalisation of the supply of electricity. This Act enables the Governor to take over any electric supply undertaking covered by a license, after giving one month's notice to the licensee. The licensee will be paid reasonable hire charges for the use of the undertaking or the value of the undertaking, based on its original installed cost *plus* capitalised expenditure thereon as recognised under the Burma Income-Tax Act or Rules, less any damage caused by circumstances arising out of the war. The owner, dissatisfied with the amount of hire or allowance given, can apply to the Governor for arbitration. If so required by the parties to the case, the arbitrator can state a case on any point of law for determination by the High Court.

Savings Stamps.—No. LXXI authorises the Governor the issue of saving stamps of such kinds, forms, denominations as may be prescribed. The person authorised is empowered to grant a licence to deal in saving stamps under condi-

tions specified in the licence. Unauthorised dealers are liable to be punished. Extensive rule-making powers are given to the Governor to carry out the objects of the Act.

Agriculturists' Debt Relief.—No. LXXII establishes Debts Settlement Board in any district, consisting of five members, for settlement of agriculturalists' debts. The Chairman of such Board must be a person holding office not lower in rank than that of an Assistant Judge or an Extra Assistant Commissioner or an Advocate of the High Court. A debtor can apply to the Board for compulsory scaling down of his debt with his creditor if his debt does not exceed Rs.10,000. Such application must contain certain particulars signed and verified in the manner prescribed by the Code of Civil Procedure. The Board can dismiss the application at any stage of the proceeding if it considers that it is not applicable to effect scaling down of the debt, or if the applicant fails to pursue his application with due diligence, or if it contains a claim which is collusive and intended to defraud any creditor. On receipt of the application, the Board is bound to issue notice calling upon the creditor to submit statement of debt. Such statement must give full particulars accompanied by production of documents including all entries in books of accounts upon which the creditor relies in support of his claim. The Board, after due enquiry, can scale down the debt incurred before October 1, 1941, in the following manner:—

1. All interest outstanding on October 1, 1946, deemed to be discharged and only principal is repayable.
2. Where the debtor has paid twice the amount of principal whether by way of principal or interest, the debt shall be deemed to have been wholly discharged.
3. Where the sum repaid by the debtor falls short of twice the amount of the principal, such amount only as would make up such shortage or the principal amount as is outstanding, whichever is smaller, is repayable.

Provisions are also made for adjustment of debt incurred after October 1, 1941. The order of the Board scaling down the debt is to be in writing, and it takes effect as if it were a decree of a Civil Court; but no Court will execute such decree without the sanction of the Board. The rate of interest payable by the debtors on loans made before the commencement of the Act will be as prescribed by the Board for scaling down the debts or at such rates previously applicable under the law from the date of the Act till December 31, 1951, but such interest will not exceed $6\frac{1}{4}$ per cent per annum. Civil Courts are debarred from entertaining any suit or application for execution of any decree in respect of any matter pending before the Board or to question validity of any procedure before the Board or a recovery of any debt payable by the debtor which has been deemed to have been discharged under the Act. Transfer of property made by the debtor with intent to delay or defeat creditor's claim can be declared void at the instance of the creditor. Legal practitioners and agents of the parties can appear before the Board.

Agricultural Tenancy Standard Rent.—No. LXXVIII fixes the standard rent of any agricultural land cultivated with paddy for the tenancy year 1947-48 at twice the amount of land revenue payable thereon and payment of such rent can either be in cash or in kind.

The Burma Navy.—No. LXXXI is somewhat on the lines of the Air Force Act and the Army Act, and makes provisions for discipline, control, direction, constitution of court-martial, punishment for offences in respect of members of the Burma Navy. The Act follows the British Navy Act. The enactment of this Act was necessary as the Burma Royal Naval Volunteer Reserve (Discipline) Act, 1940 (Act No. XV of 1940)—a temporary Act enacted by the Governor under s. 43 of the Government of Burma Act, 1945—had expired.

Emergency (Special Power) for Searchers.—No. LXXXV empowers an authority appointed by the Governor to stop and search any vessel, vehicle or

place or person and seize anything believed to have been used for any purpose prejudicial to the maintenance of public safety and order, or of the supplies and services essential to the life of the community. After seizure, the authority is enjoined to make a report to the Governor, and, pending the receipt of the Governor's order, to detain in custody anything so seized. The authority, empowered by the Governor under this Act, can delegate his power, either the whole or any part of it.

Restriction—Transfer of Immoveable Property.—No. LXXXVI prohibits the transfer of any immoveable property or lease of any immoveable property for a term exceeding one year in favour of " a foreigner " which has been defined as a person who is not a British subject domiciled in Burma, United Kingdom, India or Pakistan, or is not a subject of an Indian State. Transfers to the Government for the purpose of residential or office accommodation, or to diplomatic missions are exempted. Wide power is conferred upon the Governor to exempt the operation of the Act as respects a particular transfer. A transfer contrary to the provisions of the Act will be declared void and the property forfeited to the State.

15. CEYLON.

[*Contributed by* S. NAMASIVAYAM, ESQ., M.A., *Assistant Legal Draftsman.*]

Constitution.—The most important items in the legislation affecting Ceylon in 1947 were an Order of His Majesty in Council and an Act of the Imperial Parliament relating to changes in the constitution. Although provision had been made for the introduction of a bicameral legislature and the grant of increased powers by the Ceylon (Constitution) Order in Council in the previous year, the country's constitutional status was still short of that of a Dominion. His Majesty's Government in the United Kingdom therefore decided in June, 1947, even before the inauguration of the new constitution envisaged by that Order in Council, to confer on Ceylon full responsible status within the British Commonwealth as soon as certain agreements were entered into between the Governments of the United Kingdom and this country; and the necessary legislation to give effect to that decision was enacted soon afterwards.

This legislation consisted of the Ceylon Independence Order in Council, 1947, and the Ceylon Independence Act, 1947, of the Imperial Parliament. By that Order in Council, the Governor's power to reserve certain classes of bills for His Majesty's pleasure, and the royal power to legislate by Order in Council in regard to some specified matters, were abolished. Further, the Governor was replaced by a Governor-General who in the exercise of his powers was to act as far as possible in accordance with the constitutional conventions applicable to the exercise of similar powers by His Majesty. By the Ceylon Independence Act, 1947, certain limitations imposed by the Colonial Laws Validity Act, 1865, on the Ceylon legislature's capacity to make laws were removed, her Parliament was given the power to enact laws having extra-territorial operation, and it was provided that no future Act of the United Kingdom Parliament was to extend to Ceylon unless it was expressly declared in that Act that Ceylon had requested and consented to its enactment.

Crown Lands.—The Crown Lands Ordinance, No. 8, provides a comprehensive code for the protection, administration and alienation of Crown lands in Ceylon. There is provision in the Ordinance for the regulation and control of the use of inland waters of the Island and for the definition of the rights of the Crown in relation to that class of immoveable property known to the Roman-Dutch law as *res publica*. The Ordinance further provides for the vesting of Crown land for administrative purposes in any naval, military or air force authority or in any local authority, and for the management and protection of lands so vested.

Police.—The Police (Amendment) Ordinance, No. 22, which was adapted from the Public Order Act, passed in England in 1936, confers on the police the powers necessary for exercising adequate control over public processions and for maintaining public order. At least six hours' notice is required to be given to the police of the intention to take out processions, and power is conferred on a senior officer of Police to prohibit or regulate processions in the interests of the preservation of public order. The possession of dangerous weapons, and the use of words or behaviour tending to cause breaches of the peace, at public meetings and processions, are prohibited. The police are also vested with authority to regulate the operation, in or near public places, of instruments producing, reproducing or amplifying sound.

Education.—The Education (Amendment) Ordinance, No. 22, was intended to give effect to the new educational policy of Government. Power has been taken to prescribe the language through the medium of which instruction is to be given in any class in any school, and by virtue of this power instruction is being given in schools in the vernaculars. This Ordinance also provides that each child in a Government school is to be taught the religion of his parent.

Diplomatic Privileges.—The Diplomatic Privileges (Extension) Ordinance, No. 27, is the Ceylon counterpart of the Diplomatic Privileges (Extension) Act, 1946, and brings the laws of this country into line with that of the United Kingdom in respect of the matters dealt with in the General Convention on the Privileges and Immunities of diplomatic personnel which was adopted by the General Assembly of the United Nations on February 13, 1946. The object is to recognise the legal capacity of the United Nations Organisation and to confer the necessary privileges and immunities on its organisation and officials, particularly in such matters as legal process, taxation, customs and travel facilities.

Local Government.—The Municipal Councils Ordinance, No. 29, amends and consolidates the existing law relating to municipalities.

Mines and Mineralogy.—The Mines, Quarries and Minerals Ordinance, No. 55, amends and consolidates the law relating to mines and quarries. Special provision has also been made for securing the health, safety and welfare of workers in mines and quarries.

16. BRITISH MALAYA.

[*It is hoped to publish the review in the next issue.*]

17. MAURITIUS.

[*Contributed by* R. Espitalier-Noel, Esq.]

Sixty-nine Ordinances were passed by the Council of Government and assented to by the Governor during the year 1947.

The majority of these Ordinances deal with matters of domestic concern of which the following are the more important—

Education.—In 1949 the English Scholarships for Royal College students will be awarded for the first time on the results of the Cambridge Higher School Certificate examination which will be held at the end of 1948. The course of studies for that examination is a two-year course: it will replace the one-year course hitherto followed in the English Scholarship class.

The Royal College students who will qualify for the English Scholarship class on the results of the School Certificate examination held in December, 1946, will complete the two-year course at the end of 1948 and, if otherwise qualified, will sit for the examination under the new syllabus.

Ordinance No. 1 was passed to preserve the accrued rights of those students who had qualified for and entered the English Scholarship class before 1947 and will still be eligible for the Scholarships to be awarded in 1949 and 1950 by

providing for the special examination to be held at the end of 1948 and of 1949 in respect of those students and for the award of additional scholarships.

Diplomatic Privileges.—No. 4 follows the lines of the Diplomatic Privileges (Extension) Act, 1944, as amended by the Diplomatic Privileges (Extension) Act, 1946. It confers upon the Governor the power by Order, to confer diplomatic privileges and immunities upon international organisations which have been or may be declared by Order in Council to be organisations of which His Majesty's Government in the United Kingdom is a member as well as upon certain persons concerned with those organisations. There was no provision previously in existence in Mauritius in respect of the privileges already accorded by the Home Government.

Immigration.—No. 8 provides for the appointment of an adequate number of Immigration Officers, in view of the gradual resumption of immigration and emigration on the pre-war scale. It also empowers the Governor to prescribe a fee to be paid by the owner or agent of a ship or aircraft, as the case may be, to an Immigration Officer whose attendance is required at any port or air port on public holidays, or outside normal working hours on other days.

Cyclone and Drought Insurance.—No. 13 amends the Cyclone and Drought Insurance Fund Ordinance, 1946 (Ordinance No. 53 of 1946) in the following respects:—

(*a*) the year 1946 is added to the years excluded as normal years;

(*b*) the expenses of administration of the Cyclone and Drought Insurance Fund are henceforth to be defrayed by the assets of the Funds instead of by the general revenue of the Colony; and

(*c*) the Mauritius Sugar Syndicate is empowered to pay to the Fund all premium due by the contributors without thereby incurring any liability.

Borstal Institution.—No. 15 has introduced the Borstal System in the Colony. Subject to adaptations and modifications which were called for by local circumstances, it is virtually a *replica* of those provisions of the Prevention of Crime Act, 1908, whereby, in England, the establishment of Borstal Institutions was achieved.

District Courts Execution.—No. 17 has set up a system under which persons who are unable to pay the fines and costs imposed upon them may, in lieu of necessarily undergoing imprisonment, be ordered by the convicting Magistrate to be employed upon work of a nature prescribed by Regulations made by the Governor.

The Civil Status.—In order to ensure a proper statistical survey of the health situation in the Colony and to check cases of deaths occurring as a result of crime or of culpable acts or omissions, No. 23 provides for the compulsory production to the Civil Status Officer of a medical certificate of the cause of death before a burial permit is issued.

Graduated Poll Tax.—No. 25 was enacted to afford relief from double taxation in relation to Income Tax or any tax of a similar character by a system of reciprocal arrangements which may be entered into between the Government of the Colony and the Government of any other Territory.

Life Assurance Companies.—Under the Life Assurance Companies Ordinance, 1939, Life Assurance Companies carrying on business in the United Kingdom and having made the deposit required by the laws in force there were exempted from making any further deposit if they wished to carry on business in the Colony.

The amending Ordinance No. 34 was introduced as a result of the passing of the United Kingdom Assurance Companies Act, 1946, to ensure that Life Assurance Companies carrying on business in the United Kingdom shall not, on the withdrawal of their deposit in accordance with the provisions of that Act, be compelled to make a deposit for carrying on business in the Colony.

Magistrates.—Ordinance No. 35 has introduced a few amendments to the Courts Ordinance, 1945, the most important being that the eligibility for appoint-

ment to the Office of Magistrate should no longer be restricted to barristers of not less than five years standing at the Bar, the Governor being empowered to appoint any fit and proper person to fill that office.

Labour.—By No. 36, restrictions have been imposed upon the issue of licences to job-contractors. Hitherto, licences were often issued to undesirable persons who, either through misconduct or by want of the necessary knowledge and experience exposed workers to the risk of sustaining injuries if not of losing their lives. Licences will no more be issued unless the applicant holds a permit from the Labour Commissioner who, moreover, may attach to any permit conditions with which the licensee shall have to comply.

Civil Status.—The main object of No. 59 is to provide for the possibility of birth certificates being issued at a reduced fee and in a shortened form from which any reference to parentage or adoption shall be omitted.

Civil Partnership.—Hitherto no publicity was given to deeds constituting civil partnership (sociétés civiles); there was consequently no means of knowing who was the manager and who were the partners of such a partnership, or in the case of dissolution, who were the liquidators and difficulties consequently arose whenever claims were sought to be enforced against civil partnerships. No. 60 has remedied the situation by subjecting civil partnerships to the same form of publicity as commercial partnerships.

Workmen's Compensation.—The amendments introduced by No. 64 to the local legislation relating to compensation payable to workmen for injuries sustained in the course of their employment are the outcome of experience gained and of recommendations made by the Labour Adviser to the Colonial Office.

The main changes are the following:—(*a*) the minimum duration of incapacity entitling a workman to compenstion has been reduced from seven to three days; (*b*) the time within which compensation may be claimed has been extended from three to six months; and (*c*) the percentage of the loss of earning capacity in the case of injuries more commonly sustained by workmen has been specifically laid down to facilitate the calculation of compensation in the majority of cases.

Emergency Laws.—By No. 62 the date of expiry of certain Defence Regulations enacted during the war and which had been continued into force by the Emergency Laws (Transitional Provisions) Ordinance, 1946, until December 31, 1947, has been extended to December 31, 1950.

Employment Exchanges.—No. 67 provides for the setting up of the machinery for the purpose of collecting and furnishing information respecting employers who desire to engage workpeople and workpeople who seek engagement or employment.

Trade Disputes.—No. 68 was passed with the object of bringing the law regarding trade disputes into line with the English law, and of giving larger responsibilities to employers and workers.

Hitherto no strike or lock out was legal till the Government had taken over action; now Government must be informed, but need not take action if it does not consider its intervention would serve a useful purpose.

18. SEYCHELLES.

[*It is hoped to publish the review in the next issue.*]

19. NORTH BORNEO.

[*Contributed by* C. E. PURCHASE, ESQ., *Acting Attorney General.*]

LAWS applicable in the Colony as at January 1, 1947, fall into five divisions:—

(1) Ordinances of the State of North Borneo
(2) Straits Settlements Ordinances still applicable in Labuan
(3) British Military Administration Proclamation

(4) Essential and Emergency Regulations
(5) Ordinances of the Colony of North Borneo.

The first two divisions arise from the amalgamation of the State of North Borneo, administered by the British North Borneo Chartered Company, and the Settlement of Labuan, previously a part of the Straits Settlements. These two territories, with other parts of British Borneo, were administered after the Japanese occupation by the British Military Administration until Civil Government was resumed as the new Colony of North Borneo.

Prior to the Japanese occupation, regulations under the Emergency Powers (Defence) Ordinance had been promulgated and some of these, together with the B.M.A. Proclamations and Essential Regulations, still form a transitory portion of the legislation applicable to the Colony, but this will in time be repealed or incorporated into the Statute Book. Much of this legislation, however, differs from the normal Emergency Legislation, and, in common with other Colonies of the South-East Asia Group, deals with problems of enemy occupation and cannot in all instances be removed as quickly as Emergency Legislation has been removed in other parts of the world. This résumé is necessary to an understanding of the legislative problems and programme of the new Colony.

During the year 1947, 35 Ordinances received assent. Of these, there were some dealing with the unification of the law in the two parts of the Colony, necessary for administrative purposes. In particular, the following were unifying Ordinances and in some instances embodied minor amendments:— Arms and Explosives Ordinance, Customs and Excise Ordinance, Food Control Ordinance, Forests Ordinance, Immigration Ordinance, Liquors Revenue Ordinance, Medical Registration Ordinance, Merchandise Marks Ordinance, Midwives Ordinance, and, Pawnbrokers Ordinance.

Another group of Ordinances were the Price Control Ordinance, Custodian of Property (Amendment) Ordinance, Custodian of Property (Vesting) Ordinance, Rent Control Ordinance and Transfer of Powers and Interpretation Ordinance, all of which arise from legislation of the British Military Administration period and incorporated these, with necessary amendments, into the Statute Book.

The Re-constitution of Land Title Registers Ordinance and the Merchandise Marks (Amendment) Ordinance deal with the reconstitution of registers lost during the occupation period, and further legislation is in draft on this important and complicated subject.

The law on Education and on Probate and Administration has been rewritten and unified for the whole Colony.

Other Ordinances deal with Radio-Active Minerals, Highways, Exemption from Customs Duty, Undesirable Publications, Sedition, Trade Unions and Societies, and the constitution of the High Court was altered. The Presumption of Survivorship Ordinance and the North Borneo War Victims Fund Ordinance provide for abnormal circumstances arising during the war or the occupation period.

Lest the nature of the subjects seems to indicate a lack of planning in dealing with legislative problems, it should be pointed out that in addition to all the problems of the Japanese occupation and the fusion of two separate Statute Books within the Colony, the other abnormal legal problems arising from the same circumstances leave very little time in a department which has, for the whole year, been limited to one legal officer at any given time. A complete revision of the laws is at present impracticable, but must be undertaken as soon as possible.

VIII.—WEST AFRICA.

1. GAMBIA.

[*Contributed by* The Hon. The Attorney General.]

During the year 1947, twenty-two Ordinances were enacted; only one calls for special comment, namely:—

Public Officers' Pensions of 1947.—No. 17 amends and consolidates the law relating to Public Officers' pensions. It revises the rates of pensions which may be granted and provides for the compulsory or voluntary retirement, at the age of forty-five years (during an experimental period of three years commencing on January 1, 1947), of officers who have accepted the new conditions of service based on the recommendations of the Harragin Commission as set out in Sessional Paper No. 6 of 1947.

It also embodies provisions for pensions to dependents of non-European officers killed on duty, identical with the corresponding provisions of the European Officers' Pension Ordinance.

The Public Officers' Pensions Ordinance, 1923, has been repealed and replaced because the law had become abstruse through constant amendment. Certain sections, which had become misplaced in the course of time, have been renumbered and restored to their proper places.

2. GOLD COAST.

[*Contributed by* Arthur Lewey, Esq., *Attorney General.*]

During the year 1947, forty Ordinances were enacted, of which twenty-three were amending Ordinances. The following deserve special mention:—

Cocoa.—No. 1 provides for the establishment of an Institute to undertake research into, and the investigation of, all problems and matters relating to cocoa, and also for the appointment of a Managing Committee with full powers to give effect to the purposes of the Ordinance.

No. 16 empowers the establishment of a Board for the purposes of securing the most favourable arrangements for the purchase, grading, export and selling of Gold Coast cocoa and of assisting generally in the development of the cocoa industry.

Gold Mining Products.—No. 4 amends the Gold Mining Products Protection Ordinance (Cap. 126), so as to apply the Ordinance to imported gold in order to restrict dealings in any such gold other than jewellery.

Lunatic Asylums.—No. 5 amends the Lunatic Asylums Ordinance (Cap. 61) so as to permit the discharge of a lunatic to the care and custody of relatives or friends; the Ordinance further empowers the removal of a lunatic who is not a native of the Gold Coast to his country of origin.

Immigration.—No. 7 consolidates and brings up to date the immigration laws of the Gold Coast so as to ensure uniformity with those of the other West African Territories.

Criminal Procedure.—No. 8 amends the Criminal Procedure Code (Cap. 10) by requiring Judges and Magistrates to record briefly their decisions, together with the reasons therefor, in certain judicial proceedings.

Pensions.—No. 9 provides for a temporary increase until March 31 1948, of the amounts payable to pensioners who are infirm or of advanced age, and in the case of certain classes of dependents who receive benefits under the Widows and Orphans pension legislation.

Pensions.—No. 10 authorises a temporary increase, until March 31, 1948, of certain pensions granted under the Pensions (Non-European Officers) Ordinance (Cap 30).

No. 31 amends the War Pensions Ordinance, 1943 (No. 1 of 1943) so as to provide for appeals from pensions boards and so as to enable regulations to be made for the assessment and award of war pensions.

Native Authority.—No. 13 amends the Native Authority (Colony) Ordinance, 1944 (No. 21 of 1944) in certain respects, and more particularly so as to make provision for the appointment of a Committee of members of a Native Authority for the purpose of enquiring into constitutional matters where there is no State Council.

Income Tax.—No. 17 amends the Income Tax Ordinance, 1943 (No. 27 of 1943) and enables arrangements to be made with other Governments for relief from double taxation.

Criminal Code.—No. 25 amends the Criminal Code (Cap. 9) in respect to gaming, betting houses and lotteries, and as to dealings in poisons or poisonous matters for illegal purposes.

Motor Vehicles.—No. 28 provides for the compulsory insurance of motor vehicles against third party risks.

Rent Control.—No. 30 deals with the control of rents in respect of small premises, the annual rent of which does not exceed £100. It replaces the Defence (Rent Restriction) Regulations, 1943, which expired on December 31, 1947.

Radio-Active Minerals.—No. 32 amends the Radio-Active Minerals Ordinance, 1946 (No. 4 of 1946) in respect to the notification required in cases of discoveries of radio-active minerals.

Census.—No. 33 empowers the Governor in Council to direct a census to be taken of the Gold Coast or any part thereof, and makes the necessary provision for the carrying out of a census.

Diplomatic Privileges.—No. 35 provides for the privileges, immunities and capacities of international organisations of which His Majesty's Government in the United Kingdom and foreign governments are members, and for conferring similar immunities and privileges on the staffs of such organisations.

Industrial Development.—No. 38 makes provision for the establishment of the Gold Coast Industrial Development Corporation Limited, with the object of setting up new industries, and of developing existing industrial undertakings.

Customs.—No. 40 consolidates and brings up to date the Customs laws of the Colony in conformity with the Customs legislation of the other West African Territories.

3. NIGERIA.

[*Contributed by* LIONEL BRETT, ESQ., *Acting Senior Crown Counsel.*]

FORTY-THREE Ordinances were passed in 1947.

Income Tax.—No. 16 empowers the Governor in Council to make an order bringing into effect any arrangement made with the Government of any territory outside Nigeria for affording relief from double taxation.

Land Tenure.—Four Ordinances deal with land tenure in the Colony. In the early years after the cession of Lagos to the British Crown in 1861, the exact nature of the interests in land possessed under native law and custom either by the King of Lagos, or the various chiefs, or the persons in actual occupation, was not fully examined. The consequence has been that a number of grants made by or on behalf of the Crown over a considerable period of years have led to obscurity and misunderstanding, owing to the mixture of English and native concepts of land tenure. It is now clear, as has been held in various judgments both of the Judicial Committee of the Privy Council and of the Supreme Court of the Colony, that the rights acquired by the British Crown under the cession of 1881 did not include the right to make a grant of the freehold in land, and that the very conception of a freehold interest is alien to native law and custom. The facts are recognised in the four Ordinances in question, which, without attempting

to define native law and custom, declare Crown grants to have vested in the grantee an estate free from competing interests and restrictions, save only such interests and restrictions as are recognised by native law and custom.

The Crown Grants (Township of Lagos) Ordinance (No. 18) declares and confirms the effect of certain grants of land situate within the Township of Lagos.

The Arotas (Crown Grants) Ordinance (No. 19) does the same for grants made to "Arotas," an Arota being defined as any person who has attached himself to the household of a Chief and who occupies land subject to the control of such chief.

The Epetedo Lands Ordinance (No. 20) declares and confirms the effect of certain Crown grants which were subject to certain incidents of tenure operating in favour of the descendants of one Chief Oshodi Tappa, and provides for the enfranchisement of the land in question by extinguishment of those incidents of tenure.

The Glover Settlement Ordinance (No. 21) declares the rights existing in land which was set aside in 1867-8 as a settlement for refugees from the interior, and provides for the investigation of claims.

Statute Law Revision.—No. 24 appoints a Commissioner for the purpose of preparing a revised edition of the laws of Nigeria. The last revised edition was produced in 1923, and only the war has delayed a fresh revision until now.

Cocoa.—No. 33 establishes a Board to manage the export of cocoa from Nigeria.

Public Collections.—No. 39 provides for the registration and control of public collections. Registration is, in the ordinary way, automatic, and may only be revoked for good cause. The registration authority may call for the books of account for examination or audit.

Motor Transport Licensing —No. 42 provides for the licensing and regulation, on roads declared to be regulated roads, of commercial motor transport. It reproduces, in a simpler form, many of the appropriate provisions of the Road Traffic Act, 1930, and the Road and Rail Transport Act, 1933.

The Road Traffic Ordinance (No. 43) repeals and substantially re-enacts the Motor Traffic Ordinance, 1927, and ten amending Ordinances.

4. SIERRA LEONE.

[*It is hoped to publish the review in the next issue.*]

IX. EAST AFRICA.

1. KENYA.

[*Contributed by* H. E. Stacey, Esq., *Legal Draftsman, Kenya.*]

Thirty-six Ordinances were passed during the year 1947. A summary of the more important enactments is given below.

Estate Duty.—No. 1 exempts from the payment of estate duty any estate the value of which does not exceed £200.

Income Tax.—No. 3 codifies and extends the deductions allowable under s. 13 of the principal Ordinance (No. 11 of 1940) in respect of capital expenditure, fixes the amount of the personal deductions for the year of assessment 1947, and for succeeding years; fixes the rates of income tax for the year of assessment 1947 onwards and provides for War Taxation Ordinances to remain in force as regards assessments for the year's assessment ending on or before December 31, 1946.

Personal Tax.—No. 4 replaces s. 3 of the principal Ordinance (No. 45 of 1940) with a new section which retains, as permanent taxation, the increased rates of personal tax imposed, as a temporary measure, during the war period.

Traders Licensing.—No. 5 replaces s. 6 (1) of the principal Ordinance (No. 51 of 1936) with a new sub-section which retains, as permanent taxation, the increase of 50 per cent in the fees payable under the provisions of the repealed sub-section, imposed as a temporary measure during the war period.

Dangerous Petroleum Tax.—The principal Ordinance (Chapter 54 of the Revised Edition) as amended by Ordinance No. 48 of 1936 provided for the payment of a tax of 27 cents a gallon on all dangerous petroleum imported into the Colony, other than petroleum delivered from Customs control for the use of the Government of the Colony or of the Kenya and Uganda Railways and Harbours Services. Ordinance No. 16 of 1940 increased the rate of tax payable from 27 cents a gallon to 49 cents a gallon, and the rate was subsequently reduced to 32 cents a gallon by Ordinance No. 18 of 1941. Both those measures were temporary ones. No. 6 retains, as from January 1, 1947, the rate of tax at 32 cents a gallon.

Defence Force.—The operation of the Kenya Defence Force Ordinance, 1937, was suspended by the Compulsory National Services Ordinance, 1943, during the continuance in force of the latter measure. That measure was to expire on February 24, 1947, but it was not desired that the Kenya Defence Force Ordinance should become operative on its expiration. No. 7 was, therefore, enacted to suspend the operation of the Kenya Defence Force Ordinance until such date as the Governor may determine, by Proclamation.

Civil Procedure.—A codified edition of the Civil Procedure Rules is in course of production and during the preparation of the Rules it became doubtful whether certain provisions of the Rules were *intra vires* the Civil Procedure Ordinance, 1924. No. 8 amends that Ordinance with the object of removing such doubts.

Customs Tariff.—No. 10 repeals the Customs Tariff Ordinance, 1930, and substitutes a new measure incorporating the various amendments which have, from time to time, been made to the Customs Tariff Ordinance, 1930.

Under the provisions of s. 135 (1) of the principal Ordinance (No. 25 of 1926) all goods which were imported free of duty on the ground that they were the property of the Crown, or of an officer of the Government, or of any company, firm or individual privileged by contract or otherwise to import such goods free of duty, were liable, if such goods were thereafter sold, to be charged with the same duties as would have been payable on the importation of similar goods by any person to whom the concession did not apply. During the war large quantities of goods were imported by the Crown and it was frequently found expedient to dispose of such goods without requiring the import duty to be paid. To cover the position the section was temporarily amended, by means of Defence Regulations, to enable the Governor, in proper cases, to exempt such goods from the liability of import duty; and, upon the expiry of the Defence Regulations in February, 1946, the temporary amendment was continued until December 31, 1946, by Ordinance No. 20 of 1946. It was, however, considered desirable that the Governor should continue to be vested with the power mentioned above and No. 12 amends the principal Ordinance accordingly.

No. 35 gives effect to a Resolution passed by the Kenya Legislative Council on November 6, 1947, to exempt from payment of customs duty goods imported by the Governor for his use.

Coffee.—As a result of negotiations between the Coffee Board and the Ministry of Food, an agreement was reached whereby the Ministry of Food agreed to take 6,000 tons per annum of Kenya coffee at an agreed price for a period of five years commencing with the 1947/48 crop. It was, therefore, considered essential to continue control over the marketing of coffee to cover the whole term of the agreement. But s. 27 of the principal Ordinance (No. 6 of 1946) provided that that Ordinance should remain in force until June 30, 1949. As the agreement reached was considered in the

best interests of the coffee industry of the Colony, all coffee planters were circularised by the Coffee Board asking whether they could agree to the life of the principal Ordinance being extended for the whole period of the agreement, and an overwhelming majority of those voting agreed. No. 14, therefore, amends the principal Ordinance by prolonging its life until June 30, 1952. It also amends s. 18 of the principal Ordinance to empower the Board to sell coffee to the United Kingdom Ministry of Food without first offering it for sale by public auction in Nairobi.

Excess Profits Tax.—No. 15 amends the principal Ordinance (No. 14 of 1941) so as to give effect to the proposals set out in detail in the booklet issued by the Joint Income Tax Department in July, 1946.

No. 16 provides for a post-war refund of excess profits tax in respect of businesses which are also liable to excess profits tax in the United Kingdom. Similar post-war refunds of United Kingdom excess profits tax are to be made under Part IV of the United Kingdom Finance (No. 2) Act, 1945. The Amending Ordinance provides for such refunds to be charged with income tax for the year of assessment 1946, for income tax to be deducted before payment of the Kenya refunds at the rate of 4/- in the pound and for the tax so deducted to be set off against the liability of the person receiving the refund, in the same way as a set off is allowed for tax deducted from dividends.

Control of Detained Persons.—S. 3 of No. 18 enables the Governor, where any person has been ordered to be detained or deported by the authorities of any British Colony or Protectorate and such person has been brought to the Colony in custody, to order him to be detained, from the date of his arrival in the Colony, for such period as may be specified in the order. S. 4 provides that any person detained by virtue of an order made under s. 3 shall be deemed to be in lawful custody. S. 6 makes provision for action to be taken for dispersing detainees who assemble with intent to carry out a common purpose and threaten a breach of the peace. S. 7 provides for the apprehension of escaped detainees.

Transport Licensing.—Before the enactment of the 1947 Amending Ordinance No. 19, the law provided for appeals to the Supreme Court from decisions of the Transport Licensing Board. As such appeals are really on questions of fact it was considered that it would be more suitable and less expensive for the appellant if appeals lay to an Appeal Tribunal. S. 23 of the principal Ordinance, as replaced by the Amending Ordinance, provides for the establishment by the Governor in Council of an Appeal Tribunal to which applications on appeal from decisions of the Board may be made. In order to prevent the Appeal Tribunal from being inundated with appeals, which are frivolous or vexatious or without merit, the section empowers the Tribunal summarily to reject such appeals. All decisions of the Tribunal are final and conclusive. The Amending Ordinance adds a new section which precludes the Board from considering any application which is resubmitted within 12 months from the date of the original application, except at the discretion of the Chairman.

Traffic.—No. 20 enables Rules to be made for the recognition in the Colony of licences, permits, and similar documents issued under the provisions of any law for the time being in force in any other country, or in pursuance of any International Convention, and for the issue in the Colony of international driving permits and licences and fiscal permits for recognition in countries, other than the Colony, whether under the provisions of any International Convention or of the law of that country.

Local Government.—The principal Ordinance No 19 of 1928 empowered a Municipal Council or Board, by by-law, to prohibit or restrict the use of specified classes of vehicles in certain streets or areas within the Municipality. S. 2 of No. 21 gives similar powers, but in respect of the whole or any portion of the Municipality. The Amending Ordinance also confers upon Municipal Councils and Boards the power to raise money, other than through Government

sources, for the acquisition of moveable or immoveable property. Such loans will be secured solely upon the assets established, acquired or constructed with the loan and upon the revenues, if any, derived from such assets.

Land and Agricultural Bank.—No. 22 provides for the temporary appointment to the Board established under s. 4 of the principal Ordinance (No. 3 of 1931) of persons to take the place of substantive members who are absent from the Colony or are unable, owing to illness or other cause, to carry out their duties.

Tea.—No. 23 deletes from the principal Ordinance (No. 46 of 1934) the restriction on the number of acres which may be planted with tea in the Colony, and provides that the principal Ordinance shall remain in force until March 31, 1948, or until such other date as the Governor, with the approval of the Legislative Council may declare.

Sisal Industry.—No. 24 gives power to the Sisal Board established under the provisions of the principal Ordinance (No. 21 of 1945) to appoint committees, not only from among the members of the Board as has been done in the past, but from persons who are not members of the Board. It also authorises the Board to pay such fees, travelling and out-of-pocket expenses as may be approved by the Governor, not only to members of the Board, but to committees of non-members appointed under its new powers.

Notaries Public.—No. 25 amends Chapter 19 of the Revised Edition by permitting advocates to be licensed under the Ordinance who have practised in the Colony for one year, and who in addition have practised elsewhere, whether in the United Kingdom or in the Dominions, or Colonies, or in Uganda, Zanzibar or Tanganyika, for a further aggregate period of not less than four years.

Repatriation of Ex-Prisoners of War.—No. 27 confers upon the Governor power to repatriate ex-prisoners of war from the Colony who are nationals of a country with which a Peace Treaty has been concluded and ratified.

Customs Tariff.—No. 28 doubles, with effect from October 6, 1947, the Customs duties on cigars, cigarettes, snuff and manufactured tobacco. The increase in duty will also be payable on such goods imported for the Navy, Army and Air Force Institute/Expeditionary Force Institute, or for the Port Welfare Committee, Mombasa.

Liquor.—The chief purpose of No. 29 is to permit the sale to Africans of wines and beers.

No. 30 is a corollary of the Liquor (Amendment) Ordinance, 1947, and amends the Native Liquor Ordinance, 1930, so as to permit local authorities or persons to whom the right has been given to manufacture, sell or supply native intoxicating liquor to Africans the right, in addition, to sell wines and beers to Africans. It also provides that the profits from the sale of such wines and beers shall be expended for the benefit of the Africans in the area to which the licence applies.

Employment of Servants.—No. 31 is a corollary to the Registration of Persons Ordinance, 1947, and when this latter Ordinance is brought into force the use of kipande as a record of employment will cease.

Native Registration.—The object of No. 32 is to amend the principal Ordinance (Chapter 127 of the Revised Edition) so as:—(*a*) to enable a registration officer or magistrate to make an entry in a registration certificate in any case where an employer has not made such entry so that the native concerned may seek fresh employment; (*b*) to make it no longer legal for a police officer to demand the production of a registration certificate at all times; and (*c*) to make it no longer necessary for a registered native to carry his registration certificate on his person.

Registration of Persons.—No. 33 provides for the registration of all male inhabitants of the Colony who have attained the age of sixteen years and of such other classes of persons as the Governor in Council may prescribe. Upon

the coming into force of this Ordinance the Native Registration Ordinance (Chapter 127 of the Revised Edition) will cease to be law.

Domestic Employment.—The object of No. 34 is to repeal the Registration of Domestic Servants Ordinance, 1928 (No. 11 of 1928) and to substitute therefor a voluntary system of registration by any person who wishes to be registered in respect of any of the scheduled domestic occupations.

2. NYASALAND.

[*It is hoped to publish the review in the next issue.*]

3. SOMALILAND PROTECTORATE.

[*Contributed by* R. J. QUIN, ESQ., *Acting Legal Secretary.*]

TWENTY-SIX Ordinances were enacted in 1947.

Cinematograph.—No. 2 is based on similar legislation in other Colonial territories and regulates the making and exhibiting of Cinematograph pictures and the licensing of cinematograph theatres in the Protectorate.

Town Planning.—No. 7 provides for the laying out of townships in accordance with the present demands of health and hygiene, gives to a Town Planning Board and Local Authorities the necessary powers to enforce town planning schemes, and provides for compensation to owners of land affected by such schemes.

Kat.—No. 14 prevents the import and sale in the Protectorate of the drug " Catha Edulis " known as Kat, except by licence and restricts the number or such licences and the places at which the drug may be sold. It also prohibits cultivation and export and repeals the previous legislation on the subject.

Diplomatic.—No. 19 is designed to make provision as to the immunities, privileges and capacities of International Organisations of which His Majesty's Government in the United Kingdom and foreign Governments are members.

Cantonments.—No. 25 provides for the establishment of Cantonments and regulates the entry of public therein. These were formerly known as " protected places " and were governed by regulation 29 of the Defence Regulations, 1939, which ceased to have effect on 31-12-47.

4. TANGANYIKA TERRITORY.

[*Contributed by* F. SOUTHWORTH, ESQ., *Crown Counsel.*]

DURING the year 1947 fifty Ordinances—the highest number for any one year since 1940—were passed, thirty-two being of an amending nature. Of the principal enactments, the following call for comment:—

Labour Utilisation.—No. 2 provides for the establishment of Labour Utilisation Boards by order of the Governor in Council. The Boards consist of representatives of employers, their functions being to ration native labour among employers and to improve and maintain the health of native servants. Provision is also made whereby a Board may impose a levy on employers for meeting the expenses incurred in the performance of its function.

Export Seeds.—No. 3 is designed to control the production and export of seeds by conferring upon the Governor in Council power to establish a Seeds Board. The Board is empowered to regulate and control the production of seeds in the interest of this industry as a whole and so raise funds by a levy on export for maintaining the high quality of seed beans in this Territory.

Trade Disputes.—The purpose of No. 11 is to provide for the Establishment of an Arbitration Tribunal and a Board of Inquiry in connection with trade disputes, and to make provision for the settlement of such disputes and for the purpose of inquiring into economic and industrial conditions in the Territory.

Diplomatic Privileges.—No. 16 makes provision as to the immunities, privileges and capacity of International Organisations (United Nations).

Revised Edition of the Laws.—No. 28 has as its purpose the preparation and publication of a Revised Edition of the Laws of the Territory. Sir Donald Kingdon, K.C., is appointed Commissioner for the purpose of preparing the new and revised edition. It is proposed to make the necessary corrections of certain errors and omissions in various Ordinances which were noticed by the Commissioner, with effect from January 1, 1947.

Radio-Active Minerals.—No. 40 is a measure to regulate and control prospecting and mining for radio-active minerals and the export thereof and for purposes connected therewith. The Ordinance (Clause 6) also makes provision requiring the notification of discoveries of radio-active minerals to the Director of Lands and Mines.

Transfer of Statutory Functions.—No. 41 provides for certain statutory changes which are rendered necessary by the introduction of the Membership system whereby certain functions hitherto performed by the Chief Secretary and Heads of Departments will in future be performed by the holders of certain new Offices.

Where in any Ordinance any reference is made to the Chief Secretary or to any head of a department of Government the Governor in Council may by order substitute for the Chief Secretary or head of department (except the Chief Justice or the Attorney General) any of the following public officers:—

1, Member for Law and Order; 2, Member for Finance, Trade and Economics; 3, Member for Agriculture and Natural Resources; 4, Member for Labour, Education and Social Welfare; 5, Member for Lands and Mines; 6, The Secretary for African Affairs; 7, The Co-ordinating Secretary.

Emergency Legislation.—No. 42 provides for the permanent retention of the amendments effected to Ordinances by the Defence Regulations, 1939 to 1945, which were due to expire on December 31, 1947.

Land Bank.—No. 47 is designed to achieve the purpose of providing the establishment and management of a Land Bank for the purpose of facilitating loans in furtherance of agriculture in the Territory and to provide for matters ancillary thereto.

Immigration (Control).—Under No. 50 Powers are taken to make further and better provision for the regulation of immigration into the Territory.

5. UGANDA PROTECTORATE.

[*Contributed by* W. M. L. Henderson, Esq., *Attorney General.*]

During the year 1947, thirty-five Ordinances were passed, of which nineteen were amending Ordinances.

The following are the more important enactments:—

The Refugees (Control and Expulsion).—The control of Refugees was provided for by Defence Regulations which expired on December 31, 1947, and as some Refugees would still continue to remain in the Protectorate after that date and would not be specifically covered by the Immigration (Control) Ordinance (No. 33 of 1947) it was considered necessary to make permanent provision for the control of Refugees in one Ordinance—No. 1. Similar measures have been enacted in the other East African territories.

Income Tax.—No. 3 seeks to amend the Income Tax Ordinance, 1940 (the principal Ordinance) in the following respects:—(*a*) to codify and to extend the deductions allowable under s. 13 of the principal Ordinance in respect of capital expenditure; (*b*) to fix the amount of the personal deductions for the year of assessment 1947, and for succeeding years; (*c*) to fix the rates of income tax for the year of assessment 1947 onwards; (*d*) to provide that s. 78 of the

principal Ordinance shall continue to apply to all assessments for the years of assessment commencing on or before January 1, 1946. The said section expired on December 31, 1946.

Excess Profits Tax.—No. 4 implements the proposals published by the Joint Income Tax Department in July, 1946, in a booklet entitled "Proposals for Amendments to the Excess Profits Tax Laws in Connection with the Winding-up of the Tax." The following are some of the features of this Ordinance:—(*a*) provision for the post-war refund of the excess profits tax; (*b*) provision for the repayment of 20% of the excess profits tax paid in Uganda in respect of a business which is also liable to United Kingdom excess profits tax; (*c*) provision, with minor amendments only, on the lines of ss. 39, 40, 41, 42, 46 and 50 (4) of Part IV of the United Kingdom Finance (No. 2) Act, 1945, laying down the conditions under which post-war refunds are made in the United Kingdom.

Aerodromes.—No. 6 provides for the safe landing and taking off of aircraft on aerodromes, and, for this purpose, empowers the Governor to prohibit, restrict and order the removal of certain structures and natural growth in areas adjacent to or in the vicinity of aerodromes. Provision is also made for payment of compensation to owners of the structures or natural growth removed or reduced in height by Governor's order.

Tea.—The planting of tea in East Africa has, since 1934, been strictly limited by law to the acreage laid down under the terms of the International Tea Agreement, but in view of the world shortage of tea, which is expected to continue for some years, the East African Governments decided, with the approval of the Secretary of State, to withdraw from the International Tea Agreement. No. 7 removes the limit of acreage for tea planting and provides such acreage shall be limited to such area as the East African Governments may decide. Previously, the export of tea seed outside East Africa required the specific sanction of the Secretary of State owing to the terms of the International Tea Agreement and this Ordinance removes this requirement and also provides that cotton seed may be exported to any country with the specific permission of the Director of Agriculture.

Fugitive Offenders.—No. 9 enables the police of the Colony and Protectorate of Kenya and the Tanganyika Territory to cross the frontier of Uganda when in hot pursuit of any person who has committed, or is reasonably suspected of having committed, an offence, as defined in the United Kingdom Fugitive Offenders Act, 1881, and to arrest such person within certain area of Uganda to be defined by the Governor in Council. Similar provisions exist in the laws of the Colony and Protectorate of Kenya and the Tanganyika Territory permitting the Uganda police to enter those territories when in hot pursuit of a person in similar circumstances.

Non-Native Coffee.—No. 11 establishes a Marketing Board for the sale of non-native produced coffee and enables such Board, by giving it the status of a body corporate, to enter into contracts and particularly to enter into a contract with the Ministry of Food of the United Kingdom to supply the latter with coffee for a period of five years commencing on July 1, 1947. The Ordinance also gives power to the Marketing Board to control and regulate the sale of all non-native coffee whether for sale to the Ministry of Food or not. This Ordinance will expire on June 30, 1952, but provision is made in it for its renewal by proclamation with the approval of the Legislative Council.

Police.—The main features of No. 12, an amending Ordinance, are as follows:—(*a*) empowers the Governor to exempt any person from any order prohibiting the carrying of arms and ammunition within a disturbed area; (*b*) empowers the Commissioner of Police to take possession of any vehicles and enter any land or building in a disturbed area, and, further, provides for the return of the vehicles temporarily taken possession of and for payment of compensation by a Valuation Board; and (*c*) provides for the approval of the Legislative Council

in the event of the Governor deciding to extend the one month duration of a notice declaring a disturbed area.

Liquor.—No. 14 partly removes the restriction that existed prohibiting Africans from purchasing liquor. With the enactment of this Ordinance, by rules to be made thereunder Africans will be permitted to buy wine, ale, beer, porter, cider, perry or hop-beer, *i.e.*, liquor other than spirituous only.

Industries Licensing.—No. 22 is designed to give the East African Governments some voice in the location of industry, as there are certain manufacturing industries which have no prospect of securing adequate turnover, at the outset, unless the whole of the East African consumption of their product is met by one producing unit. The Ordinance empowers the Governor to declare that no person shall without first obtaining a licence erect, establish or operate a factory for the manufacture of certain specified articles. Licences will be issued or refused on the recommendation of the East African Industrial Council. It is not the intention of the Ordinance to restrict industrial activities generally.

Internees.—No. 24 makes provision for the regulation and control of Internees, and their expulsion from the Protectorate, if necessary. Most of the provisions of this Ordinance were contained in the Defence Regulations which expired on December 31, 1947, and as some Internees have continued to remain in Uganda after that date it was considered desirable that more permanent provisions should be made by Ordinance.

Forests.—No. 28 repeals and replaces the old Forests Ordinance (Cap. 77) in a revised form more in conformity with modern ideas. Under the old Ordinance forests were divided into Crown Forests, Demarcated Forests, Undermarcated Forests and Native Forest Reserves. The present Ordinance avoids these confusing classes and groups forests into three simple categories, namely, Central Forests Reserves, Local Forests Reserves and Village Forests. While the Central Forest Reserves and Local Forest Reserves correspond with the old Crown Forests and Native Forest Reserves, the Village Forest is a new conception which allows small communities to exercise control over their own forests.

Electricity Board.—The main feature of No. 29 is the establishment of an Electricity Board with powers to acquire and operate existing electricity undertaking in Uganda and to generate, distribute and supply electricity within and without the Protectorate. This Ordinance empowers the Electricity Board to acquire and operate the undertaking now owned by the East African Power and Lighting Company Limited. The Electricity Board has been given the status of a body corporate and has all the powers of such a body and shall have the sole right to generate and supply electricity within the Protectorate subject to any licence it may grant to any other person with the approval of the Director of Public Works.

Immigration.—No. 33 makes provision for better control of immigration into the Protectorate. Identical Ordinances have been enacted in the other East African territories. Future immigrants are classified into various classes depending on the nature of the employment, or the purpose for which, they wish to seek in Uganda. Before being granted permission to enter Uganda, an immigrant will have to apply to a particular authority, appointed for each class of immigrant by the Governor, and obtain a certificate that he is eligible to enter the Protectorate. Provision is also included whereby a permanent resident, as defined by the Ordinance, will automatically be entitled to an entry permit or to a re-entry permit.

The Ordinance also contains provisions for the deportation of any person entering in contravention of the Ordinance, and the prohibition of certain classes of immigrants (called " prohibited immigrants ") from entering the Protectorate.

Local Government.—No. 34 establishes machinery by which form of local Government, more in keeping with modern requirements, can be established in

Uganda. Under the Ordinance, the Governor is empowered in respect of any area in the Protectorate:—(*a*) to establish a municipality under the jurisdiction of a Municipal Council; or (*b*) to establish a municipality under the jurisdiction of a Municipal Board; and (*c*) to change a municipality established under (*b*) into a municipality established under (*a*) and *vice versa* as circumstances may require.

A Municipal Council shall have all the powers which are set out in the Ordinance subject to certain rights of the Governor—notably the right to dissolve such Council. The Council may consist of elected of nominated members or partly of elected or partly of nominated members. A Municipal Board, on the other hand, may only have such of the powers set out in the Ordinance as the Governor may prescribe. It will form a sort of a half-way stage between full municipality status and the Township Authority established under the Townships Ordinance, 1938. The Board may consist of elected or nominated members or partly of elected and partly of nominated members.

The Ordinance provides for the various sources of revenue of the Municipal Councils and Boards and for obligatory and discretionary grants from public revenue and for the raising of loans.

The main features of No. 35 are:—(*a*) provision for a Rating Code which will be gradually and eventually applied to the whole of the Protectorate; (*b*) provision enabling Local Authorities to levy local rates in the form of a "Site Rate," an "Improvements Rate" and a "Commercial Rate"; (*c*) provision for a revision of the present basis of assessment; (*d*) provision for the collection of rates from the Crown, Local Authority or Self-Accounting Service in respect of property which they own and/or occupy; and (*e*) provision for preserving the existing basis of assessment in all areas of Uganda to which the Ordinance has not been applied.

It is the intention that this Ordinance shall apply, in the first instance, only to certain areas of Uganda, but that it shall gradually and eventually cover the whole of the Protectorate.

6. ZANZIBAR.

[*Contributed by* A. McKisack, Esq.]

During the year 31 Decrees were enacted, and the following are the more important subjects with which they dealt:—

Copra Industry.—No. 12 enables a levy to be imposed on the export of copra, coconut oil and locally manufactured soap, so as to create a fund for the general betterment of the copra industry.

Immigration.—No. 28 repeals the former immigration laws and introduces new principles of control. It applies without discrimination to all races and nationalities, other than Africans belonging to East African tribes. These Africans are exempt from the application of the Decree and, consequently, can enter the Protectorate without restriction. Certain classes of person, e.g., destitutes, mental defectives, prostitutes, etc., are declared to be prohibited immigrants. Other persons (except serving members of H.M. Forces and diplomatic or consular representatives) must obtain permission from the immigration authorities before they can enter the Protectorate. The Decree specifies in detail the qualifications required of those who intend to reside in the Protectorate, qualifications designed to ensure that they are adequately equipped for the occupation in which they intend to engage and are not likely to become a burden on public funds; and the immigration authorities must be satisfied in every case that it will not be to the prejudice of the inhabitants of the Protectorate to permit the entry of a person intending to engage on his own account in agriculture, animal husbandry, mining, trade, business or maufacture, or to practise any prescribed profession or

to engage in paid employment. Less stringent provision is made for permitting the entry of those who only wish to make a temporary stay in the Protectorate. And freedom of entry into the Protectorate is accorded to a person who has established permanent residence in any of the other three East African territories.

Income Tax and Excess Profits Tax.—Nos. 3 and 4 make extensive amendments to the principal enactments, mainly of a technical nature. The rates of tax are not altered, but some concessions are made in respect of allowable deductions.

Legislative Council.—No. 15 increases the unofficial membership of the Council by one, so that there are now eight unofficial members, two of whom are appointed to represented African interests.

Local Government.—No. 14 makes provision for introducing a system of local government in the rural areas of the Protectorate. Local councils may be set up for prescribed areas, and their constitution will provide for the representation of the various peoples living within an area and of the tribal elders. They will have power to make by-laws for the safety and well-being of the inhabitants, to raise revenue and to incur expenditure, but the exercise of these powers is made subject to the approval of the Sultan in Executive Council.

Mental Patients.—No. 9 replaces the Lunacy Decree which, in some respects, was inconsistent with modern ideas on this subject. The Decree deals comprehensively with such matters as the adjudication of persons of unsound mind, the control of mental hospitals and patients and the powers of the courts over persons and estates.

Probation of Offenders.—No. 24 makes provision for placing offenders on probation on the lines of the law now in force in England. Formerly there was provision for binding over an offender to keep the peace and be of good behaviour, but no provision for placing him under the supervision of a probation officer who would " advise, assist and befriend " him.

Rent Restriction.—No. 13 amends the law relating to rent restriction in the light of experience gained in its operation, and, while it does not introduce any new principles of importance, the Decree should enable advantage to be taken more easily of the benefits which the law was designed to confer.

7. SUDAN.

[*Contributed by* J. G. Mavrogordato, Esq., *Advocate-General.*]

In 1946 fourteen Ordinances, of which thirteen were amendments to existing Ordinances, and one hundred and six Legislative Rules and Orders were enacted; and in 1947 there were twenty-six Ordinances, of which twenty-three were amendments, and one hundred and three Legislative Rules and Orders. The bulk of this legislation was of minor importance and of no interest to this Journal.

Post-war economic conditions necessitated the continuance of economic and currency controls, which were effected mainly by Orders made under the Economic (Transitional Controls) Ordinance, 1945. This Ordinance was due to expire on December 28, 1947, by which time it was hoped that the majority of the controls which remained could be relaxed or abolished altogether. Instead, the economic situation was in many respects as difficult at the end of 1947 as it had been at the end of 1945, and as a result the Economic (Transitional Controls) Continuation Ordinance, 1947, which provided for the continuation of the 1945 Ordinance with certain amendments for a further two years was enacted.

Apart from this body of economic legislation, an Ordinance of considerable importance to the general public, the Rent Restriction Ordinance, 1947, came into force in June, 1947. This Ordinance repealed and re-enacted with substantial amendments, the Rent and Recovery of Possession of Premises Restriction Ordinance, 1943, as amended by the Amendment Ordinance of 1944. The former legislation had been largely successful in its aim of protecting tenants and par-

ticularly the poorer classes of tenants, from uncontrolled increases of rent, with the alternative of eviction if they could not pay. Although by 1947 the progress of new building did not justify the removal of control, it was clear that some increase in rents over level prevailing on September 3, 1939, had to be permitted to landlords in view of the general increase in the cost of living, and in particular in the cost of keeping house property in a proper state of repair. The most important provisions of the new Ordinance are as follows:—

(1) Certain percentage increases in standard rents are permitted, except in the case of buildings erected since May 1, 1943, which are considered to have been let at the full war-time or post-war market value.

(2) In order to encourage the landlord to keep his property in repair, the standard rent may be increased by 10% of the expenditure reasonably incurred by the landlord on structural repairs to the property.

(3) The landlord may in certain cases recover temporary possession of premises for the purpose of structural improvement, reconstruction, alteration and repair.

(4) Certain statutory conditions are imposed on all tenancies, and in particular a condition prohibiting assignment or sub-letting except with the landlord's consent in writing, which is not to be unreasonably withheld.

The results of this Ordinance have it is thought been beneficial to the public and to the Courts in simplifying and clarifying the law.

In the sphere of Local Government six new Warrants and Regulations, creating one new Municipality and five new Rural District Councils, were issued by the Governor-General. There was in addition a large number of amendments to existing Local Government legislation and warrants.

The fourth and last volume of the new Revised Edition of the Laws, containing the titles "Criminal Law" and "Administration of Justice," was published on May 15, 1947.

10. SOUTH ATLANTIC.

1. BRITISH GUIANA.

[*Contributed by* A. C. Brazao, Esq., *Legal Draftsman.*]

Forty-three Ordinances were enacted during the year. The more important of these were the following:—

Income Tax.—No. 1 increases the rates of income tax for the year of assessment 1947, on persons having a chargeable income exceeding $6,000, and on companies. At the same time excess profits tax with respect to any accounting period or part thereof falling after December 31, 1945, was abolished by No. 2. No. 6 extends the basis of charge of foreign income to income arising abroad, whether remitted or not. This Ordinance also revises the method and procedure for affording relief from double taxation. Assessments may now be made five years instead of two years after the year of assessment, and a corresponding right to refund of tax overpaid is given the taxpayer.

Customs Duties.—No. 4 restores the preference on petroleum products which was removed by No. 7 of 1943. The Ordinance also substantially increased the duty on spirituous liquor and tobacco, toilet preparations and cosmetics.

Pensions.—No. 7 amends the Teachers Pensions Ordinance, C. 197, with respect to the computation of pensions and the payment of a reduced pension with a gratuity. Provision is also made that where teachers are appointed to the Civil Service their right to pensions earned by them as teachers shall be preserved. No. 8 gives effect to certain recommendations of a committee appointed in 1934 by the Secretary of State to report on questions relating to the grant of pensions to widows and orphans of officers in the Colonial Service.

Licensed Premises.—No. 11 amends No. 22 of 1944, with respect to the opening and closing hours of licensed premises. Spirit shops are now required to close for a period of two to three hours during the afternoon. In hotels, work is put on a shift system and work on Sundays paid for at overtime rates.

Public Officers Guarantee Fund.—No. 12 abolishes the Public Officers Guarantee Fund established by Ordinance No. 9 of 1880 (now C. 202) and provides for the disposal of moneys held thereunder.

Rent Restrictions.—No. 13 enlarges the application and extends the duration of No. 23 of 1941. Provision is made for the fixing of maximum rents by a Rent Assessor on application of a tenant or landlord. No. 23 of 1941 is now extended to December 31, 1951, but may be further extended by Resolution of the Legislative Council.

Workmen's Compensation.—Nos. 14 and 38 amend No. 7 of 1934 mainly for the purpose of extending its application, and to provide for compulsory insurance in respect of certain classes of employment. Compensation benefits have also been substantially increased.

Sugar Industry Special Funds.—No. 20 provides for the establishment in respect of the sugar industry of a Price Stabilisation Fund, a Rehabilitation Fund and a Labour Welfare Fund, by means of a levy of $13.20 on every ton of sugar manufactured in the Colony after December 31, 1946, and exported therefrom.

Radio-Active Minerals.—No. 22 regulates and controls prospecting and mining for radio-active minerals and their export. The object of the Ordinance is to prevent such minerals from being used for improper purposes. The Ordinance is adapted from the Gold Coast Radio-Active Minerals Ordinance, 1946 (No. 4).

War Marriages.—No. 23 confers on the Supreme Court temporary jurisdiction in certain matrimonial causes where the relevant marriage took place on or after September 3, 1939. The Ordinance does not, except in purely formal matters, depart from the relevant provisions of the Matrimonial Causes (War Marriages) Act, 1944, of the United Kingdom.

Landlord and Tenant.—No. 26 regulates the relationship between landlord and tenant and amends the existing law in certain respects. In the Ordinance the several types of tenancies are defined and it is declared that the common law of England relating to such tenancies applied in the Colony since January 1, 1917, the date of the coming into operation of the Civil Law of British Guiana Ordinance, C. 7, and shall continue to apply subject to the provisions of that Ordinance. Those provisions include part of the Roman Dutch common law which existed in the Colony up to December 31, 1916, and adaptations from English Acts bearing on the relationship of landlord and tenant.

Factories.—No. 30 provides for the registration and regulation of factories and replaces the Regulation of Dangerous Trades Ordinance, 1938 (No. 3). It is based largely on the Factories Act, 1937, of the United Kingdom, with certain necessary modifications to meet local conditions.

Summary Jurisdiction.—No. 32 confers upon a court of summary jurisdiction power to impose a fine in lieu of imprisonment when a person is convicted of a summary conviction offence under any Ordinance which authorised imprisonment only.

Aliens.—No. 37 regulates the entry of aliens into the Colony and makes provision for registration. The Governor is empowered to grant exemptions from the provisions of the Ordinance.

Diplomatic Privileges.—No. 40 is based on the United Kingdom Diplomatic Privileges (Extension) Acts, 1944 and 1946, and empowers the Governor in Council to make Orders conferring diplomatic immunities and privileges upon any international organisation such as the United Nations.

Immigration.—No. 42 regulates the entry and departure of persons into and out of the Colony. Prohibited immigrants may not enter or remain in the Colony except as otherwise provided in the Ordinance. Without deciding whether

a person is a prohibited immigrant an immigration officer may grant him a permit to enter the Colony for a temporary purpose on his furnishing security.

2. BRITISH HONDURAS.

[*It is hoped to publish the review in the next issue.*]

3. FALKLAND ISLANDS.

[*Contributed by* THE COLONIAL SECRETARY.]

Medical Registration.—No. 2 provides for separate registers and fees in respect of Medical Practitioners, Midwives and Dentists.

4. ST. HELENA.

[*Contributed by* K. H. CLARKE, ESQ., *Government Secretary.*]

SEVEN Ordinances were enacted during the years 1946 and 1947 of which the following is of interest:—

Workmen's Compensation.—Ordinance No. 3 of 1946 provides for the payment of compensation to workmen for injuries suffered in the course of their employment. Prior to the enactment of this Ordinance no local workmen's compensation legislation was in force and cases were dealt with under the United Kingdom law on which the present law is based.

XI. WEST INDIES.

1. BAHAMAS.

[*Contributed by* J. S. R. COLE, ESQ., *Attorney General.*]

FORTY-FIVE Acts were passed during the year.

Airports Board.—No. 20 gives the Board the same standing as other statutory Boards in the Colony. It defines the position of the Director of Civil Aviation and also places the management and control of all scheduled airports in the Colony under the Board. For the moment, the only scheduled airport is at Oakes Field, Nassau, but doubtless others will be added in the future.

Children and Young Persons.—No. 21 repeals the Juvenile Offenders Act, 1936 (Ch. 11 of 1936) which Act, as a result of certain amendments in 1941, brought within its scope various classes of children who were not strictly speaking "offenders" and who should not have been so stigmatised. The Act deals with ill-treated and neglected children, and the title (Children and Young Persons Act) frees from any implication of criminality or guilt, the persons dealt with under it. It sets up juvenile courts consisting of three members (at least one of whom must be a woman) chosen from a panel and confers upon them exclusive jurisdiction in relevant matters.

Market and Slaughterhouse.—No. 28 places the Nassau Market under the Board of Agriculture instead of the Health Board as formerly and delegates additional powers to the Board of Agriculture.

Statutory Rules and Orders.—No. 1 of 1947 requires that all Rules and Orders be laid before both Houses of the Legislature. If within six weeks either House of the Legislature passes a condemnatory resolution in respect of such Rules or Orders they are thereby revoked.

Telecommunications.—No. 18 places the control of telephones, telegraphs and all forms of radio communication under one Board, known as the Telecommunications Board. It also provides some control over Mobile Stations, a form of communication which has become increasingly important in recent years.

2. BARBADOS.

[*It is hoped to publish the review in the next issue.*]

3. JAMAICA.

[*Contributed by* J. L. CUNDALL, ESQ., *Acting Attorney General.*]

LAWS PASSED: 55.

Holidays with Pay.—Law 2 confers power upon the Governor in Executive Council by order to direct that workers in any occupation shall be entitled to such holidays with pay as may be determined in the order. Any such order may provide for the conditions on which, the duration of, and the period within which the holiday shall be allowed.

Radio-Active Minerals.—Law 17, which forms part of the comprehensive mining legislation, prohibits the prospecting for, mining of, or the exportation of any radio-active mineral except under licence from the Governor in Executive Council. Provision is made for the holder of a licence to prospect or to mine, making a monthly report of his operations. The Law also requires every person who discovers any radio-active mineral on any land to report the discovery to the prescribed authority.

Advertisements.—Law 19 prohibits the erection of hoardings and advertisements except with the prior authority of the Director of Public Works. Provision is made for an appeal to the Governor in Executive Council by any person aggrieved by a refusal by the Director of Public Works to authorise the erection of a hoarding or advertisement. The Director of Public Works is given power to remove unauthorised hoarding and advertisements.

Law 24.—*The Parochial Officers Pensions Law,* 1947;

Law 25.—*The Provident Fund Law,* 1947;

Law 26.—*The Teachers' Pensions Law,* 1947;

Law 27.—*The Pensions Law,* 1947; and

Law 28.—*The Jamaica Constabulary Force* (*Amendment*) *Law,* 1947:

The above Laws which are based upon Model Pensions Ordinances have brought the local pensions legislation into line with similar legislation in other colonial possessions.

Land Acquisition.—Law 29 which is closely modelled on the Land Acquisition Ordinance of the Straits Settlements was enacted with a view to expediting and rendering less expensive the compulsory acquisition of land for public purposes. Provision is made for the Commissioner of Lands instead of an *ad hoc* tribunal to be the authority charged with determining in the first instance the amount of compensation payable. An award by the Commissioner will, however, be subject to review upon appeal to the Court by an aggrieved owner.

Mining.—Law 41 is a part of the comprehensive mining legislation which is designed to control and regulate generally the mining of minerals in the Island. The Law provides that prospecting for minerals may take place either under a prospecting right granted by the Commissioner of Mines or under an exclusive prospecting licence granted by the Governor in Executive Council. Under the latter no other person may prospect in the area in respect of which the licence is granted. The Law provides that mining may take place in accordance with the terms of a mining lease which contains provision for the payment of a royalty on all mineral which is mined.

Vaccination.—The Law relating to vaccination which was in operation prior to the enactment of Law 51 was in many respects obsolete. This Law was enacted with a view to providing a comprehensive modern enactment regulating vaccination.

Textile Industry.—Law 52 is designed to encourage the manufacture of textiles by granting, in favour of recognised manufacturers of textiles, certain concessions in relation to customs duty and tonnage tax during a period of five years and in relation to income tax during any five of the first eight years from the date upon which a manufacturer is declared by the Governor in Executive Council to be a recognised manufacturer.

4. LEEWARD ISLANDS.

[*Contributed by* THE ATTORNEY GENERAL.]

THIRTEEN Federal Acts were passed by the General Legislative Council of the Leeward Islands during the year 1947. Of these the most important were:—

Trade Unions.—Trade Unions Act, 1939, is amended by No. 2 so as to remove certain restrictive provisions from the Principal Act which makes it unlawful for one or more persons whether acting on their own behalf or on behalf of a trade union, and whether so acting in contemplation or furtherance of a trade dispute to attend at or near places where persons work or reside with the intention of intimidating such persons, and declares certain strikes and lock-outs to be illegal.

Undesirable Persons.—The Undesirable Persons Expulsion Act (Cap. 79) is amended by No. 3 which repeals s. 22 of the Principal Act. This section gave absolute power to the Governor to prohibit the entry into the Colony of any person not being a person born in the Colony, and made it obligatory on the master of the ship or aircraft on which a person who is so prohibited arrives, to convey him out of the Colony.

Trust Corporations.—No. 6 authorises the grant of probate or letters of administration of deceased persons, to trust corporations, such corporations being a corporation appointed by the Court, or constituted under the law of the Colony or of Great Britain or of Canada and having a place of business in the Colony and empowered by its constitution to undertake trust business.

Public Officers' Guarantee Fund.—No. 7 repeals the Public Officers' Guarantee Fund Act (Cap. 132) (which provided for security to be given by public officers by way of a monthly contribution to the Fund created by the Act for the faithful performance of their duties) and to authorise certain refunds from such contributions to be made to contributors.

Pensions.—No. 10 authorises an increase of certain pensions payable in respect of public service. These increases are payable in the case of a pensioner who is married or has at least one dependant, if his total income does not exceed $2,160.00, and in the case of any other pensioner, if his total income does not exceed $1,680.00.

The laws relating to pensions are amended and consolidated in No. 12 which reduces the retiring age from 60 to 55 years, increases the pension constant from 1/720 to 1/600, and is based on a model which is being adopted by most colonies.

Police.—No. 13 re-enacts s. 20A of the Principal Act and provides for the taking for the purpose of identification, of the measurements, photograph and finger print impressions of any person who is suspected, from the nature or character of the offence with which he is charged, of having been previously convicted of or engaged in crime, or whether such measurements, photograph and finger print impressions are required in the interests of justice. It also introduces better provisions in relation to disciplinary proceedings against members of the Police Force.

I. ANTIGUA.

In the Presidency of Antigua nineteen Ordinances were passed by the Legislative Council during the year 1947. Of these the most important were:—

Sugar Exports Cess.—No. 10 imposes a cess on sugar exported from the Presidency and provides for the establishment of certain funds for the purpose of furthering the interests of the sugar industry and of the workers engaged therein. The amount of the cess is two pounds fifteen shillings on every ton of sugar exported and is divisible in the following proportions to the undermentioned funds:—

The Sum of £1 5s. to a Price Stabilisation Fund, which is to be used to mitigate the adverse effect of any reduction in the price of sugar;

The sum of £1 to a Rehabilitation Fund which shall be used for the reimbursement of expenditure of a capital nature incurred by owners of the sugar factories on new development or on deferred major replacements and maintenance and on factory machinery and equipment in the sugar industry; and

The sum of 10/- to a Labour Welfare Fund which may be used to meet the cost of capital work for improvement of the welfare of labourers engaged in the sugar industry and for the provision and maintenance of services and amenities generally (including capital works) pertaining to their welfare.

Income Tax.—No. 11 amends the Income Tax Ordinance, 1945, and provides, *inter alia,* that the official emoluments received by the Governor of the Colony shall be exempt from the payment of income tax, and for arrangements being made with the Government of any territory outside the Presidency with the Government of the Presidency with a view to affording relief from double taxation in relation to income tax and any tax of a similar character.

Rent Control.—No. 13 restricts increases of the rents of certain premises and the recovery of possession thereof. This Ordinance makes it unlawful for a landlord to increase the rent of any new building beyond the " standard rent " unless the increase is sanctioned under the provisions of the Ordinance or to increase the rent of any other building to an amount which exceeds the " standard rent " by more than fifteen per cent unless the increase is also sanctioned under the provisions of the Ordinance.

Tonnage Duties.—No. 18 amends the Tonnage Duties Act, 1889, and increases the tonnage dues, payable by vessels arriving in the Presidency with cargo to be landed therein, or departing from the Presidency with cargo taken from the Presidency, to two shillings per ton of such cargo.

II. ST. CHRISTOPHER and NEVIS.

In the Presidency of St. Christopher and Nevis twelve Ordinances were passed by the Legislative Council during the year 1947. Of these the most important were:—

Cotton.—No. 2 amends and consolidates the law relating to the production of and local traffic in cotton.

Auctioneers.—No. 4 provides for the licensing and regulation of auctioneers.

Income Tax.—No. 6 amends the Income Tax Ordinance, 1945, and is in similar terms to Antigua No. 11 (*supra*).

Sugar Exports Cess.—Ordinance No. 7 imposes a cess of sugar exported in similar terms to Antigua No. 10.

Turtles.—The protection of turtles is the object of No. 9 which prescribes a close season for the catching of turtles and makes it an offence to catch turtles or sell turtle meat, during the close season.

III. MONTSERRAT.

In the Presidency of Montserrat six Ordinances were passed by the Legislative Council during the year 1947. Of these the most important were:—

Income Tax.—No. 3 is in similar terms to the Ordinances of Antigua and St. Christopher and Nevis.

Smuggling.—No. 4 amends further the Tariff Collection Ordinance, 1893, by providing better provisions for the protection of the revenue against smuggling.

IV. VIRGIN ISLANDS.

In the Presidency of the Virgin Islands only one Ordinance was made for that Presidency during the year 1947, and it had for its object the amendment of the Income Tax Ordinance, 1946, as in the other colonies.

5. WINDWARD ISLANDS.

I. GRENADA.

[*Contributed by* The Hon. A. R. Cools-Lartigue, *Attorney General.*]

During the year 1947 thirty-five Ordinances were passed. The following are the more important enactments:—

Quarantine.—No. 1, being an Ordinance relating to quarantine and similar matters, gives effect to recommendations made by the British West Indian Quarantine Conference held in Trinidad in November, 1943, relative to the adoption of uniform quarantine legislation throughout the British West Indies.

The Ordinance is modelled on that which forms an annexure to the Report of the Sub-Committee appointed by the Conference to consider the preparation and adoption of a model Quarantine Ordinance and regulations for the British Colonies in the West Indian area.

The Regulations which form the Schedules to the Ordinance are intended to implement the provisions of the International Sanitary Convention of 1926, and the International Sanitary Convention for Aerial Navigation of 1933, respectively, to which it was considered desirable that the before-mentioned Colonies adhere.

Nutmeg Industry.—No. 8 gives effect to a decision of the Executive Council and also to implement the direction of the Secretary of State to the effect that small growers of nutmegs be included in the list of persons eligible for membership of the Nutmeg Association.

Mental Hospitals.—No. 12 provides for the treatment of voluntary patients at a Mental Hospital. The Ordinance follows legislation on similar lines in force in the Colony of Trinidad (vide the Trinidad Lunacy and Mental Treatment Ordinance—Cap. 12, No. 8, ss. 46, 47 and 48).

Supreme Court.—No. 19 reduces from five years to three years the duration of the period of articles of clerkship in the case of persons who, before entering into articles, had been *bona fide* clerks to barristers or solicitors for ten years.

Polish Medical Practitioners.—No. 24 provides that Polish Medical Practitioners who hold, or have held, Government Medical appointments be registerable as medical practitioners in the Colony.

Public Officers' Guarantee Fund (Repeal).—No. 31 repeals the Public Officers' Guarantee Fund Ordinance (Cap. 185) and authorises refunds of officers' contributions to the fund standing to their credit in certain circumstances. This measure was introduced since the practice of requiring Civil Servants to give security was abolished in the United Kingdom many years ago, and also because of the fact that few Colonies outside the West Indies still retain the system. It was felt that there was no special argument for the retention of the system in this Colony.

II. ST. LUCIA.

[*Contributed by* The Honourable J. Conrad Wooding, *Crown Attorney.*]

Seventeen Ordinances were enacted during the year 1947, the most important being:—

Criminal Code.—No. 1 amends the Criminal Code of 1920 to make it an offence for any person to persist, in any public place, in following any other person for the purpose of soliciting alms or employment, satisfying idle curiosity and annoying. Provision is also made for a sworn statement taken under certain safeguards from a person due to leave the Colony to be produced as *prima facie* evidence in court.

Sugar Export Cess.—No. 5 makes provision for levying a cess on the proceeds of certain sugar exported from the Colony and for establishing the following funds: The Price Stabilisation Fund, The Rehabilitation Fund, and the Labour Welfare Fund.

Guarantee Fund.—No. 6 repeals the Guarantee Ordinance No. 91 of 1916 Revision under which a Public Officers Guarantee Fund was established, and authorises refunds to certain contributors.

Export Duties.—No. 7 amends the Schedule to the Export Duties Ordinance No. 12 of 1939 fixing the export duties of Copra and Coconuts.

Diplomatic Privileges.—No. 15 makes provision for extending to the Colony the law of England relating to the immunities and privileges of sovereigns, diplomatic agents and representatives of foreign states.

Teachers' Pensions.—No. 16 provides for the payment of pensions to teachers in Government and Assisted Primary Schools.

III. SAINT VINCENT.

[*Contributed by* P. Cecil Lewis, Esq., *Crown Attorney.*]

Forty-nine Ordinances were passed during 1947. Of these the most important were:—

Penicillin.—The object of No. 5 is to control the acquisition and disposal of Penicillin and Penicillin preparations, and to ensure that these substances are administered under proper medical supervision. The Governor in Council is given power to make regulations for carrying out the provisions of the Ordinance.

Hotels.—No. 6 is intended to give assistance to the hotel industry by allowing the free entry of building materials and equipment of British origin designed for the hotel trade. The importation of materials is permitted under licence, and the Collector of Customs is empowered to refund, in accordance with the provisions of the Ordinance, any customs duty which may have been paid by a licensee.

Beekeeping.—No. 10 is designed to give encouragement to the beekeeping industry, and it makes provision for the control of industry by the appointment of Inspectors of apiaries, the registration of apiaries, and imposing a duty of notifying the Inspector of any disease in an apiary.

Natural Disasters.—The object of No. 13 is to give statutory powers to Relief Committees and officers appointed to act under the Ordinance in the event of the occurrence of any natural disaster. Hitherto the Committees had only administrative sanction and their powers were of necessity limited. The Ordinance now gives power to Relief Committees to requisition articles for the immediate relief of distress in any area in the Colony affected by a natural disaster.

Intestate Estates.—No. 24 makes provision for the distribution of the property of an intestate on his death and deals with both real and personal property. This involves the abolition of the rule of primogeniture and all other existing modes, rules and canons of descent, and substitutes therefor in s. 16 of the Ordinance, new principles of devolution of property.

Motor Vehicles Insurance.—No. 28 provides for the protection of third parties against risks arising out of the use of motor vehicles.

Currency.—No. 31 gives power to substitute dollars and cents for pounds, shillings and pence in any law in force in the Colony, and came into effect on the first day of January, 1948. As a result of this Ordinance, the accounts of the Colony are now being kept in dollars and cents.

Sulphonamide Drugs.—No. 35 gives the Governor in Council power to make regulations for controlling the sale and use of Sulphonamide Drugs.

Diplomatic Privileges.—No. 40 makes provision as to the immunities, privileges and capacities of sovereigns, diplomatic agents and representatives of foreign powers, international organisations of which His Majesty's Government in the United Kingdom and foreign governments are members; and it confers immunities and privileges on the staffs of such organisations and representatives of member governments and in respect of premises and documents of such organisations.

Land Surveyors.—No. 41 lays down the conditions under which Land Surveyors may be licensed, and imposes penalties for breach of the provisions of Ordinance. A new feature is introduced, viz., the apprenticeship system and the registration of apprenticeship articles.

Ticket Duty.—No. 42 imposes a duty of 8/4 on each ticket sold to persons travelling out of the Colony either by sea or air. There are certain exceptions, and the agents are responsible for the collection of the tax and its payment into the Treasury.

Entertainments.—No. 43 imposes a tax on entertainments, and regulates the use of places of entertainment by providing for the licensing thereof.

Police.—No. 48 is intended to replace the previous Police Ordinance which had undergone several amendments and was in need of revision and consolidation.

6. TRINIDAD and TOBAGO.

[*Contributed by* H. W. Wilson, Esq., *Attorney General.*]

During the year 1947 forty-seven Ordinances were enacted, of which particulars of the more important are as follows:—

Emergency Powers.—As a result of a strike by a limited number of workers employed on the oilfields which had lasted for some weeks and which had resulted in a number of acts of violence and of intimidation, culminating on the night of January 16 when two oilwells were set on fire by undoubted acts of sabotage and of other acts of sabotage including the emptying of reservoirs, presumably with the intention that water should not be available to extinguish any fires which might be started, No. 3 was enacted forthwith with the object of providing measures to control the emergency which had arisen as a result of these acts of sabotage which were endangering public safety at that time. The main objects of the Ordinance were to enable the Governor to make regulations for the imposition of curfew in any area where it was considered essential so to do, to prohibit unauthorised persons from approaching oilwells and to order the removal of persons regarded as a potential danger during the period of emergency from the area of the oilfields.

Rent Restriction.—No. 4 imposed further restrictions on the demand and payment of premiums in respect of premises to which the Rent Restriction Ordinances apply. The meaning of premium has been extended to include any overcharge on the sale of furniture or other articles, or the goodwill or stock of, or the fixtures used in connection with, a business, the purchase of which is required as a conditions of the grant, renewal or continuance of a tenancy or the giving up of possession of premises rented under a monthly tenancy, and it is now an offence for a person to demand, accept or pay such a premium in respect of the grant renewal or continuance of a tenancy, or any premium as consideration for the giving up of possession of premises rented under a monthly tenancy. A prospective tenant required to purchase property is protected by a provision imposing on the vendor the duty of supplying the purchaser with an itemised account of the property and the price paid for each item of property; and the vendor is liable to a penalty for a breach of this duty.

Patents, Designs and Trade Marks.—No. 5 enacted provisions similar to those contained in ss. 4, 6 and 7 of the Patents and Designs Act of 1946 of the United Kingdom.

Labour Statistics.—No. 6 made provision for the collection of information from employers regarding the number, wages, hours and working conditions of work people employed and for the periodic returns of the information relating to these matters.

Telephones.—No. 12 provided for the sale of the Government Telephone System of Tobago to the Trinidad Consolidated Telephones Limited on payment

by this Company of a sum of thirty-eight thousand eight hundred and four dollars and seventy-four cents to the Accountant General.

Lands and Buildings Taxes.—The Lands and Buildings Taxes Ordinance No. 18 imposes a tax at the rate of seven and one-half per centum on buildings outside the boundaries of the three Corporations, and there is no power to increase the rate in areas where additional amenities, such as street lighting, are provided. The Corporations have such power and clause 2 of this Ordinance confers a similar power on Government to raise the rate to ten per centum.

Assurance Companies.—The Assurance Companies Ordinance, 1943, makes provision for exempting any United Kingdom assurance company doing business in the Colony from payment of a deposit here if it has complied with the United Kingdom law with respect to deposits and guarantees. The Assurance Companies Act, 1946, has now altered the law of the United Kingdom with regard to the making of deposits by abolishing deposits for all new insurance companies (which must now have a paid-up share capital of £50,000) and providing that two years after the coming into force of the Act, and, in the case of a new Company, two years after incorporation, a Company carrying on general business must be in such a position that the value of its assets exceeds the amount of its liabilities by £50,000 or one-tenth of the general premium income of the company in its last preceding financial year, whichever is the greater, and it was considered that the safeguards contained in this legislation afforded adequate protection for the Colony against the financial instability of United Kingdom companies carrying on insurance business here. The Ordinance, therefore, relates the provisions of the local law to the provisions of the United Kingdom law.

Further amendments to ss. 9, 10, 32 and 33 of the 1943 Ordinance enable Assurance Companies to submit typewritten instead of printed accounts, abstracts and statements to the Registrar General where printing would involve the Companies in unnecessary expense.

Agricultural Credit Bank.—Under the Agricultural Credit Bank Ordinance, No. 14 of 1943, the Agricultural Credit Bank took over all the rights made by Government in favour of Agricultural Co-operative Societies and Agricultural Credit Societies and also in respect of outstanding advances made by Government under the Cocoa Industry Relief Ordinance and the Agricultural Industry Hurrican Relief Ordinance. The Bank also took over the responsibility of and liability for these loans and advances.

It was considered, however, that the Bank should not be held liable to repay Government the amounts of any of these loans or advances which are irrecoverable and No. 19 made provision accordingly.

Income Tax.—The object of No. 21 was to make further provision for the avoidance of double taxation of income and to prevent fiscal evasion with respect to taxes on income. Two important changes in income tax legislation have been made:—

(*a*) the adoption, with reference to the exigibility to tax on income, of the "arising basis" in respect of gains or profits, that is to say, the taxation of the total income of persons resident in the Colony wherever arising and whether remitted to the Colony or not, but not of income arising outside the Colony which is earned income and is not brought into the Colony nor of income arising outside the Colony to a person who is not ordinarily resident or domiciled in the Colony and not brought into the Colony.

(*b*) the substitution of "tax Credits" for the existing method of relief from double taxation where applicable. The conclusion of arrangements for relief from double taxation between the Government of this Colony and any other Government is entrusted to the Governor in Council who may also make rules for carrying out the provisions of any such arrangements.

Hindu Marriage.—No. 23 authorises the Governor to delegate power previously

confined to himself to grant licences to priests of the Hindu religion to be marriage officers.

Marriage.—No. 24 authorises the Governor to delegate his powers under the Marriage Ordinance:—(*a*) to issue licences for the appointment of marriage officers; and (*b*) to authorise the issue by district registrars of certificates dispensing with the requirement of notice of intended marriage and of residential qualifications in case of any non-resident parties to marriage. The previous law required this power to be exercised by the Governor by writing under his hand.

Income Tax.—No. 25 provides additional revenue by increasing the rates of income tax in every case. The increase in the rate applicable to a Life Insurance Company is to bring that rate up to the average rate applicable to an individual whose net chargeable income is $4,800.00.

The Ordinance increased the allowance made for a child from $200.00 to $240.00. The higher allowance for expenses up to a maximum of $1,200.00 will no longer be made for a child being educated abroad at a primary school; and, on the other hand, it will be extended to a child receiving full time instruction abroad at a trade or other technical school. The term " child " has been extended to include an illegitimate child.

Trade Duty.—In order to provide additional revenue No. 26 imposes trade duty upon certain luxury goods specified in the Schedule which are imported into the Colony or taken out of any bonded warehouse. The Ordinance expires on the 31st day of December, 1948, unless continued in force by resolution of the Legislative Council.

No. 27 is intended to encourage capital expenditure in the following trades:—(*a*) the manufacture and refining of sugar and its by-products; (*b*) the distilling of rum; (*c*) the working of any mine, oil well, or other source of mineral deposits and the manufacture, refining and processing of other minerals and other derivatives; and (*d*) any other trade to which the Governor in Council may declare that the Ordinance shall be applicable.

With this end in view, certain capital expenditure will be treated in the proportions contained in the Ordinance as deductions in arriving at a chargeable income. In the case of " industrial buildings " the initial allowance of ten per centum of such expenditure will be allowed followed by annual allowances of two per centum over a period of 50 years. In the case of machinery, an initial allowance of twenty per centum is provided for, but unlike the United Kingdom the prevailing rates only of allowances for the exhaustion by wear and tear of machinery will be allowed annually. In the case of industrial buildings, for such " wear and tear " allowance will be substituted the annual allowance, which is no more generous to the taxpayer.

The provisions are based on cognate provisions in the United Kingdom Income Tax Act, 1945, but many substantial concessions in the United Kingdom Act are not embodied in this Ordinance.

Part IV of the Ordinance provides for an annual allowance of ten per centum of expenditure in erecting residences for work people—but no allowances can be claimed for repairs. This allowance will give the necessary stimulus to the oil and sugar industries erecting such residences, and should assist substantially in the solution of the housing problem. This part of the Ordinance is incorporated in substitution for certain generous allowances particularly to the extractive industries in respect of capital expenditure on searching for or on discovering and testing deposits or winning access thereto, as well as on scientific research, etc.

Gambling.—In order to increase the general revenue of the Colony, No. 28 enables duty to be collected on all lotteries organised and controlled by the Trinidad Turf Club and racing club affiliates, including those hitherto duty free. Pari-mutuel tickets have hitherto been exempt from duty under the Gambling Ordinance.

This Ordinance also increases the rate of duty on all sweepstake tickets sold,

and provides that such duty will be payable on units of twelve cents paid for a ticket. Hitherto no duty was payable where the price fixed for a ticket did not exceed twelve cents.

Letting of Houses.—The effect of No. 31 is to make it a condition in any contract for letting any house for human habitation that the house is at the commencement of the tenancy in good repair and reasonably fit for human habition and that the landlord will keep it in such repair notwithstanding any term of the contract or lease to the contrary.

Trade Disputes.—The amendments to the law in the United Kingdom relating to Trade Unions by the repeal of the United Kindom Trade Disputes and Trade Unions Act of 1927 are made by No. 33 to the law in this Colony in so far as the provisions of the Act of 1927 applied thereto, with the exception that so far as political funds are concerned the law of contracting-in still maintains.

Probation of Offenders.—No. 35 brings the law relating to the probation of offenders up to date, defines and simplifies the application of probation methods and provides for the better organisation of the Probation Service.

In its main provisions it follows the draft Model Ordinance circulated by the Secretary of State.

The Ordinance differs from the Model in the following respects:—

It does not provide that, before a probation order can be made, the offender must express his willingness to comply with it. It is felt that the Bill would not work in this Colony if offenders knew they had it in their power to say whether they would be put on probation or not.

S. 4 provides that a probationer may be ordered to attend at a probation Training Centre.

S. 7 (3) provides that, in special circumstances, the Court may remit sums unpaid for costs, damages or compensation. It is intended that this provision will only be used in deserving cases.

S. 8 will, in cases where the probationer has expressed willingness to comply with the condition, enable the Probation Officer to co-operate with the Medical Practitioners, particularly in cases of nervous or psychological disorders contributory to the offence committed.

S. 19 gives power to the Governor to establish Probation Training Centres.

Land Acquisition.—No. 40 consolidates various Ordinances relating to land acquisition and incorporates recommendations made by the Bar Council (*a*) for publication of every acquisition in the local newspapers in addition to the Royal Gazette, and (*b*) for persons failing to make claims for compensation within the statutory period of 12 months to be able to obtain an extension of time for so doing from the Governor in Executive Council.

Dipiomatic Privileges.—No. 43 enables diplomatic privileges and amenities to be conferred on international organisations, including the United Nations, and on the officers of such organisations and is based upon the provisions of the Diplomatic Privileges (Extension) Acts, 1944 and 1946 of England.

Education.—No. 47 enables four Colonial Scholarships and also one Colonial Scholarship for girls to be awarded by the Governor in Council under the Education Ordinance. The existing law provides for the award of three Colonial Scholarships.

XII. MEDITERRANEAN.

1. GIBRALTAR.

[*Contributed by* C. C. Ross, Esq.]

Twenty-eight Ordinances were passed during the year 1947, the most important of which were the following:—

Criminal Jurisdiction.—No. 4 amended the Supreme Court Order so as to make it unnecessary to obtain the Governor's prior consent to the prosecution of members of the Garrison.

Midwives.—A Midwives Board has been created by No. 5, and the law and practice modernised.

Unlawful Immigration into Palestine.—The Governor was by No. 10 empowered to detain ships which appear to him likely to be used for unlawful immigration.

Town Planning.—Building development is now controlled by a Central Planning Commission (No. 11).

Trade Unions.—No. 15 makes the law similar to that in the United Kingdom.

Poor Prisoners.—Provision of legal aid has been elaborated by No. 16, and remuneration to counsel increased.

Local Government.—Elections to the City Council have been reorganised, and women may now vote and be elected (No. 18).

Housing Accommodation.—No. 19 makes it an offence to use for any but residential purposes accommodation which has been so used at any time since January 1, 1940, unless it was being used for such other purpose at the commencement of the Ordinance.

Government Lottery.—A Government lottery has been established by No. 21. With certain exceptions all other lotteries are declared to be illegal, as is the conduct of certain prize competitions through newspapers or in connection with any trade or business.

Indecent Reports of Judicial Proceedings.—The Judicial Proceedings (Regulation of Reports) Act, 1926, has by No. 23 been enacted in Gibraltar.

2. CYPRUS.

[*Contributed by* STELIOS PAVLIDES, ESQ., K.C., *Attorney General.*]

DURING 1947 twenty-eight Laws have been enacted, of which fourteen were new or consolidating Laws.

Of the new or consolidating Laws, the following may be noted:—

Widows' and Orphans' Pensions.—No. 3 makes provision for the establishment of a pension fund for widows and orphans of pensionable officers of the Government.

Births and Deaths Registration.—No. 8 amends and consolidates the Births and Deaths Registration Laws, 1895 to 1937, with the particular object of enabling the authorities to collect more data for the preparation of vital statistics in accordance with modern requirements.

Piers.—No. 11 seeks to regulate the legal position in Cyprus with regard to the erection of piers.

Betting Houses, Gaming Houses, Lotteries and Gambling.—No. 15 consolidates and strengthens the Law relating to betting houses, gaming houses, lotteries and gambling and is designed to help in combatting the growth of gambling which was increasingly becoming a social scourge.

Development and Welfare.—No. 17 enables the Governor with the approval of the Secretary of State to raise by loan a sum not exceeding £3,000,000 on securities issued by the Treasurer to be applied to certain specified development and welfare purposes which include agricultural, water supply and irrigation, forestry, medical, educational and road projects. The loan is to be issued in Cyprus upon the best and most favourable terms that can be obtained on conditions which the Governor may impose before the issue.

Diplomatic Privileges.—No. 25 makes provision as to the immunities, privileges and capacities of international organisations, of which His Majesty's Government in the United Kingdom and foreign governments are members, including the General Assembly and any council or other organ of the United Nations.

Police Law.—No. 26 amends and consolidates the Police Laws, 1878 to 1940, and certain other related laws.

Press.—No. 28 consolidates in a considerably amended form the Newspapers, Books and Printing Presses Laws, 1934 to 1944, omitting, *inter alia*, the provisions relating to permits for the publication of newspapers and the possession of printing presses and to the cancellation of permits or the suspension of newspapers by the Colonial Secretary. Under the Law any person who intends to publish a newspaper is required to furnish the Colonial Secretary with a declaration on oath containing certain specified particulars and with a bond in the sum of £500.

Of the amending Laws, the following may be noted:—

Courts of Justice.—The object of No. 5 is to enable the Governor to increase the limit of the jurisdiction of any President of a District Court, sitting alone, to five hundred pounds which was previously limited to cases involving amounts not exceeding two hundred pounds.

Income Tax.—The object of No. 14 is to remove an anomaly in the existing system of relief of individuals subject to double taxation.

Increase of Rent (Restriction).—The object of No. 16 is to enable the trial of ejectment cases under the Increase of Rent Restriction Laws by the President of a District Court or a District Judge, sitting alone, nothwithstanding that, by reason of the amount of the claim or otherwise, the case would not be within the single jurisdiction of such President or Judge; the amendment is designed both to expedite the hearing and reduce the cost of ejectment cases.

Game and Wild Birds.—The object of No. 19 is to strengthen the Law in certain respects in the interests of the preservation of the Island's game, a matter which has been the subject of a great number of suggestions and counter-suggestions, exhibiting a remarkable divergence of points of view over what appeared to be a common aim.

Immigration.—No. 24 amends again the definition "native of the Colony," doing away with the provision, introduced by Law 14 of 1939, that in addition to other requirements a person could only be considered as a native of Cyprus, if he were also a British subject; under the new definition a person is treated for the purpose of the Immigration Laws as a native of the Colony if, irrespectively of his nationality he fulfils the other requirements of the definition and if he is not recognised by any other foreign state as having acquired its nationality on or since November 5th, 1914, (the date of the annexation of Cyprus.)

3. MALTA, G.C.

[*Contributed by* J. M. GANADO, ESQ., LL.D.]

DURING the year 1947 thirty-eight Ordinances were enacted by the Governor with the advice and consent of the Council of Government; one Ordinance was enacted by the Governor by virtue of the powers conferred upon him by the Malta (Office of Governor) Letters Patent, 1947; and six Acts were passed by the King's Most Excellent Majesty with the advice and consent of the Legislative Assembly.

Touting.—By means of No. 1 amending the Code of Police Laws (c. 13) touting on the behalf of any advocate, legal procurator, or notary public or on one's own account was made an offence punishable with a fine (multa) of not more than £25 or to imprisonment for not longer than three months or to both such fine and imprisonment.

The word "tout" refers to any person who, not being a duly qualified advocate or legal procurator or notary public, undertakes in return for any fee (1) to draft or prepare legal instruments specified in the law otherwise than on direct instructions and on the responsibility of an advocate or legal procurator or notary public; (2) to give legal advice whether oral or in writing; (3) to find clients for any advocate or legal procurator or notary public.

Advocates, legal procurators or notaries public may not employ as a clerk any person whose name at the time of initial employment or within one year

previously appear or appeared in any list of touts published by one of the Registrars of the Courts of Justice (s. 34d). For breaches of this section, a fine not exceeding £25 may be inflicted, apart from any disciplinary action that may be taken in accordance with Ord. No. II and other laws.

Elections and the Franchise.—No. IV amended the Electoral (Polling) Ordinance (c. 163). Besides establishing machinery for the filling up of vacancies in the Council of Government, it authorised the Governor to direct by Warrant addressed to the Treasurer that all such moneys as are required for meeting any expenses incurred in the execution of the provisions of the main Ordinance be paid out of the General Revenue and other funds of the Government of Malta without any further appropriation. A statement of the expenses paid must however, be laid on the Table of the Council of Government, then in existence under the 1939 Constitution.

According to No. V, s. 4, any person who is a British subject of the age of 21 years and upwards and who is ordinarily resident in Malta and has been so resident therein for a period of not less than 12 months, immediately preceding registration, has a right to vote at any election of members of the Council of Government. It is thus not required that a voter be able to read and write.

Criminal Code.—No. VI made several amendments to the Criminal Code (c. 12). The most important are the following:—

S. 3 empowers a Court by which a sentence of interdiction has been awarded to discontinue such interdiction at any time on good grounds being shown to its satisfaction.

S. 9 introduces a new section regarding Infanticide. In the Criminal Code, there was no specific provision relating to the crime of Infanticide. The new section provides that " where a woman by any wilful act or omission causes the death of her child, being a child under the age of twelve months, but at the time of the act of omission, the balance of her mind was disturbed by reason of her not having fully recovered from the effects of giving birth to the child or by reason of the effects of lactation consequent upon the birth of the child, then, notwithstanding that the circumstances were such that but for this section the offence would have amounted to wilful homicide, she shall be guilty of infanticide and shall be liable to the punishment of imprisonment for a term not exceeding twenty years."

Succession and Donation Duties.—No. XI amends the Succession and Donation Duties Ordinance (c. 70) by adding a proviso to para. (*a*) of subs. (1) of s. 7 of the principal Ordinance. By this proviso, a gratuitous transmission by an unmarried woman without her father's consent or without the authorisation of the Court or by a person of over seventy years of age without the Court's authorisation is declared not to be void or ineffective " *ab initio* " nor to be subject to a suspensive condition.

According to the " Objects and Reasons " published together with the draft Ordinance, " the proposed amendment is intended to eliminate the possibility " of evasion, " by providing that for the purposes of c. 70 such donations shall be deemed to be *voidable* but not void ' *ab initio* ' and that consequently they will attract duty even if annulled."

War Damage.—No. XVIII establishes a War Damage and Reconstruction Account into which all moneys received from the Crown Agents for the Colonies as Trustees of the grant of £10,000,000 made in the year 1943 by His Majesty's Government in the United Kingdom for the restoration of war damage and other post-war expenditure, shall be deemed to have been paid. There are detailed provisions concerning financial relations between this Account and the General Revenue of the Malta Government and s. 8 provides that as from the date of coming into force of this Ordinance, the War Damage Commission shall not be liable to reimburse the Malta Government in respect of any of the expenditure incurred by the Government in making good war damage in respect of which

compensation could be claimed under the War Damage Ordinance, 1943.

National Day.—By No. XX September 8 was declared to be Malta's National Day of commemoration of the lifting of the two great Sieges of 1565 and 1941-43. The preamble states " Whereas it is dutiful to commemorate the heroic and glorious deeds of the People of these Islands and to celebrate the victorious conclusion of the Great Siege of 1565 and of the not less memorable Siege of the years 1941 to 1943 " and in s. 2 it is provided that " there shall be flown on all public buildings, together with the Union Flag, the Maltese National Flag." The Ordinance thus follows closely the National Holiday Act (c. 80) which however referred only to the 1565 Siege.

Petroleum.—By No. XXIII it is declared that the property in any petroleum in its natural condition in strata wheresoever existing in Malta is hereby vested in the Malta Government and the Governor shall have the exclusive right of searching and boring for and getting such petroleum (s. 3 (1)). The expression " petroleum " as defined by s. 2 includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata, but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

Reletting of Urban Property.—No. XXVIII enacted some amendments to the Reletting of Urban Property (Regulation) Ordinance (c. 109). The most important one is s. 3 which reads as follows: " Any promise made by the tenant, whether before or after the enactment of this Ordinance, that he will vacate the premises when he finds alternative accommodation or to a like effect, shall not be construed as a notice of termination of the tenancy to the prejudice of the tenant, and shall not by itself entitle the lessee to recover possession of the premises."

The term " letting " is deemed to include (*a*) any emphyteutical grant for a period not exceeding sixteen years and (*b*) any agreement in pursuance of which any person has been accommodated in consideration of payment periodically recurrent in any premises other than a hotel or lodging house licensed as such by the Police and (*c*) any other agreement whereby any real or personal right on any premises, which right includes that of occupation of those premises, is granted under an onerous or commutative title for a period of time, whether such time is established by fixing a certain specified day or whether it can be established by reference to a certain or to an uncertain future event.

No. XXIX modifies the definition of " fair rent " in a way that where structural alterations or additions in a house have been carried out which, in the opinion of the Rent Restriction Board, have enhanced the rental value of the house in respect of which or part of which no compensation is payable under the War Damage Ordinance, the rent shall be increased by an amount corresponding to the enhancement of the rental value, provided that such increase shall not exceed 5% a year on the capital outlay not refundable.

According to s. 5 of the Ordinance, the tenants of furnished houses are to enjoy the same protection as the tenants of unfurnished houses, in so far as the possibility of the landlord regaining possession of the dwelling-house is concerned.

Land Acquisition.—The Land Acquisition (Public Purposes) Ordinance (c. 136) is amended by No. XXXI. By this Ordinance the Government is empowed to acquire the perpetual public tenure of land on payment of a recognition rent. The competent authority is subject to no restriction as to the use it may make of the land; it may demolish and not replace any structures thereon and alter the use to which the land was previously put. The person entitled to the recognition rent is under no obligation to carry out any work imposed by law on an owner of land, nor shall his right to the recognition rent be affected in any way by the destruction in whole or in part of any structure originally or subsequently erected on the land. In case of sale of the land, the person entitled to receive the recognition rent will have the right to make an offer for its purchase

and subsequently increase that offer, if it is not lower than the highest tender by more than 10% of the highest tender.

The relations between the purchase of land previously held by the vendor on public tenure and the person entitled to receive a recognition rent thereon shall be governed by the law of emphyteusis. (S. 8 (8)).

The Royal University.—The General Council of the Royal University is described in s. 6 (1) of No. XXXII as " the supreme organ of government of the University and the administrator of the property of the University." The Authorities of the University shall be :—(1) The Chancellor, *i.e.*, the Governor, who is *ex officio* Chancellor; (2) The Vice-Chancellor and Rector Magnificus; (3) The Council; (4) The Senate; and (5) The Boards of the various Faculties.

The Council shall consist of the Chancellor, the Rector, one member appointed by the Inter-University Council for Higher Education in the Colonies, six members appointed by the Legislature, six members appointed by the Senate of the University, and one member appointed by the Guild of Graduates.

The Senate shall consist of the Rector Magnificus, of one representative appointed by the Board of each Faculty and of such other members as are prescribed in the Statute, provided that the majority of such other members are holders of University appointments which are not of a temporary nature.

Each Faculty shall be regulated by a Board subject to the authority of the Council and of the Senate. The Board of each Faculty shall consist of the Rector Magnificus as Chairman and of the Professors, Readers and Lecturers in the subjects of the Faculty.

Supplies. —The Governor was specifically empowered by Act No. IV to make regulations for maintaining supplies and services essential to the life of the community and for controlling the production, distribution, use or consumption of goods and particulars acts are specifically mentioned without however prejudicing the generality of the power conferred upon him. By s. 12 the Act shall continue in force for the period of two years and shall then expire, unless a Resolution is passed by the Legislative Assembly extending its operation.

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